110-385

TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1883.

No. 227.

EX PARTE: IN THE MATTER OF CLODOMIRO COTA, PETITIONER.

ON A CERTIFICATE OF DIVISION IN OPINION BETWEEN THE JUDGES OF THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF CALIFORNIA.

FILED MARCH 3, 1881.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1883.

No. 227.

EX PARTE: IN THE MATTER OF CLODOMIRO COTA, PETITIONER.

ON A CERTIFICATE OF DIVISION IN OPINION BETWEEN THE JUDGES OF THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF CALIFORNIA.

INDEX.

	Original.	Print.
Petition for writ of habeas corpus	1	1
Order granting writ of habeas corpus	5	2
Return of United States marshal to writ	6	3
Return of sheriff to writ	7	3
Writ of habeas corpus	8	3
Return of Mexican consul	10	4
Warrant issued by governor of California	17	6
Requisition of political chief of Lower California	19	7
Translation of requisition	23	8
Proceedings touching investigation instituted by authorities of Lower California	28	10
Translation of above	77	30
Order admitting petitioner to bail	133	52
Certificate of division	135	53
Order amending return of Mexican consul	142	55
Clerk's certificate	144	55
Clerk's certificate	145	56

1 *Petition of Clodomiro Cota for writ of habeas corpus.*

In the circuit court of the United States of America in and for the district of California.

IN THE MATTER OF THE APPLICATION OF }
Clodomiro Cota for a writ of habeas corpus. }

The petition of Clodomiro Cota to this hon. court respectfully showeth:

That your petitioner is a native-born Mexican citizen and a resident of the State of California.

That heretofore, to wit, on the second day of December, A. D. eighteen hundred and eighty, your petitioner was arrested by a detective in the Gaillard Hotel, in the city and county of San Francisco, State of California, by virtue of a warrant issued by the governor of the State of California, as your petitioner is informed, and delivered to the consul of the United Mexican States in the city and county of San Francisco, who delivered your petitioner to the commander of the Mexican gunboat Democrata, anchored in the bay of the city and county of San Francisco, whence he

2 was brought to the jail of said city and county of San Francisco on the sixth day of said month of December, A. D. eighteen hundred and eighty, to be delivered to the sheriff of said city and county of San Francisco, to be by him brought before the superior court of the city and county of San Francisco, State of California.

That on the seventh day of December, A. D. eighteen hundred and eighty, your petitioner was brought before said superior court in obedience to a writ of habeas corpus issued by the same, as your petitioner was then informed, and was committed by said court at the request of counsel for the consul of the United Mexican States in the city and county of San Francisco, to said sheriff of the city and county of San Francisco, to be by him held until it is decided whether your petitioner shall or not be surrendered to said consul.

That your petitioner is imprisoned and restrained of his liberty in violation of clause 14th of the treaty of April 5th, 1831, between the United States of America and the United Mexican States, which gives Mexican citizens in territory of the United States of America the same protection to their persons and property as that granted to its own citizens.

3 Wherefore he prays that a writ of habeas corpus be issued by this honorable court, forthwith, directed to the sheriff of the city and county of San Francisco, in the State of California, commanding him to bring before your hon. court the person of your petitioner at the time and place that this hon. court may determine, and then and there make due return to said writ, and your petitioner will forever pray, &c.

CLODOMIRO COTA.

STATE OF CALIFORNIA,
City and County of San Francisco, ss:

Clodomiro Cota, after being duly sworn, deposes and says that the foregoing petition has been read to him and he knows the contents thereof, and that the same is true of his own knowledge except as to matters

and things therein stated upon his information and belief, and that as those matters he believes it to be true.

CLODOMIRO COTA.

Sworn to and subscribed before me this 16th day of December, 1880.

JOS. F. O'BEIRNE,
Comm'r of U. S. Circuit Court Dist of Cal'a.

4 *Order granting writ of habeas corpus.*

Let a writ of habeas corpus issue pursuant to the prayer of said petition, returnable before the circuit court of the United States for the district of California on Friday, the 17th day of December, in the year of our Lord one thousand eight hundred and eighty, at 11 o'clock in the forenoon of said day, at the court-room of said court at the northeast corner of Sansome and Washington streets, in the city and county of San Francisco in the district aforesaid.

OGDEN HOFFMAN,
Dist. Judge.

DECEMBER 16, 1880.

(Endorsed:) Filed December 17th, 1880. L. S. B. Sawyer, clerk, by J. F. O'Beirne, deputy clerk.

5 *Writ of habeas corpus.*

In the circuit court of the United States of America for the district of California.

IN THE MATTER OF THE APPLICATION OF Clodomiro Cota for a writ of habeas corpus.

The President of the United States of America to the sheriff of the city and county of San Francisco, State of California, greeting:

You are hereby commanded that you have the body of Clodomiro Cota by you imprisoned and detained, as it is said, together with the time and cause of such imprisonment and detention, by whatsoever name the said Clodomiro Cota shall be called or charged, before the circuit court of the United States for the district of California at the court-room thereof at the northeast corner of Sansome and Washington streets, in the city and county of San Francisco, California, on Friday, the 17th day of December, A. D. 1880, at 11 o'clock in the forenoon of said day, to do and receive what shall then and there be considered concerning the said Clodomiro Cota, and have you then and there this writ.

Witness the Hon. Morrison R. Waite, Chief Justice of the
6 United States Supreme Court, at the city and county of San Francisco, the 17th day of October, 1880.

[L. S.] L. S. B. SAWYER, *Clerk*,
By J. F. O'BEIRNE, *Deputy Clerk.*

Return of U. S. marshal to writ.

OFFICE U. S. MARSHAL, DISTRICT OF CALIFORNIA.

I hereby certify that I have duly served the writ, of which the within is a copy, on the within-named Thomas Desmond, sheriff of the city and county of San Francisco, in this district, by delivering to and leaving with said Desmond personally at the city and county of San Francisco, in this district, at the hour of 9.50 a. m. this 17th day of Dec'r, 1880, the original, of which this writ is a copy.

A. W. POOLE, *U. S. Marshal,*
By CHAS. L. FAVOR, *Deputy.*

(Endorsed:) Filed Dec. 17, 1880. L. S. B. Sawyer, clerk, by J. F. O'Beirne, d'p'y cl'k.

7 *Return of sheriff to writ.*

OFFICE OF THE SHERIFF OF THE CITY AND COUNTY OF SAN FRANCISCO.

IN RE OF CLODOMIRO COTTA FOR A WRIT OF habeas corpus.

To the hon. the circuit court of the United States of America for the district of California:

I, Thomas Desmond, sheriff of the city and county of San Francisco, State of California, do hereby certify and return that I have now before this hon. court the body of the within-named Clodomiro Cota, as by this hon. court commanded by the annexed writ.

THOS. DESMOND,
Sheriff of the City and County of San Francisco, State of California.

8 *Writ of habeas corpus.*

In the circuit court of the United States of America for the district of California.

IN THE MATTER OF THE APPLICATION OF Clodomiro Cota for a writ of habeas corpus.

The President of the United States of America to the sheriff of the city and county of San Francisco, State of California, greeting.

You are hereby commanded that you have the body of Clodomiro Cota by you imprisoned and detained, as it is said, together with the time and cause of such imprisonment and detention by whatsoever name the said Clodomiro Cota shall be called or charged, before the circuit court of the United States for the district of California, at the court-room thereof, at the northeast corner of Sansome and Washington streets, in the city and county of San Francisco, California, on Friday, the 17th day of December, A. D. 1880, at 11 o'clock in the forenoon of said day, to do and re-

ceive what shall then and there be considered concerning the said Clodomiro Cota, and have then and there this writ.

Witness the honorable Morrison R. Waite, Chief Justice of the
9 United States Supreme Court, at the city and county of San Francisco, the 17th day of December, A. D. 1880.

[SEAL.] L. S. B. SAWYER, *Clerk*,
By J. F. O'BEIRNE, *Deputy C'k.*

(Endorsed:) Filed on return this 17th day of December, 1880. L. S. B. Sawyer, clerk.

10 *Return of Mexican consul accompanied by Spanish documents and translations thereof and stipulations in relation thereto.*

In the circuit court of the United States, ninth circuit, district of California.

IN THE MATTER OF CLODOMIRO COTA ON HABEAS CORPUS.

The undersigned consul, in the city of San Francisco, of the Republic of Mexico, in return to the writ of habeas corpus issued out of this honorable court in the above-entitled matter, begs leave to say:

That prior to the second day of December, 1880, said Clodomiro Cota was arrested and taken into custody under and by virtue of a warrant issued by the governor of the State of California in pursuance to a requisition addressed to him by the governor of the Territory of Lower California, a territory of the Republic of Mexico, from which said territory said Cota had fled a fugitive from justice, and was by the officer making such arrest delivered in the custody of the undersigned in obedience to and in pursuance of said warrant.

That said requisition and said warrant were made and issued under and pursuant to, and in obedience to, and in conformity with, the pro-
11 visions of a "Treaty between the United States of America and the United Mexican States for the extradition of criminals," concluded at Mexico, December 11th, 1861. Ratified May 20th, 1862. Proclaimed June 20th, 1862. A copy of which said warrant is hereto annexed and made part hereof; and a copy of said requisition, together with a translation of said requisition from the Spanish into the English language, and of the fourteen depositions referred to in said requisition and in said warrant of the governor of California, together with a translation of the same, are also referred to and made a part of this return.

That on the said 2d day of December, 1880, the undersigned delivered said Cota into the custody of J. O. Monasterio, the commander of the ships of war of the Republic of Mexico in the waters of the Pacific, on board the armed ship of war of said republic, the gunboat Democrata, then lying in the harbor of San Francisco, in order and for the purpose that said Cota might be taken back and returned to the governor and jurisdiction of said territory of Lower California, from whence he had fled a fugitive from the justice and laws thereof.

That on the 4th day of December, 1880, the superior court of the city

and county of San Francisco issued under the seal of said court its
12 writ of habeas corpus in the matter of said Clodomiro Cota requiring and commanding the undersigned, as well as the commanders of the gunboats of the Mexican Republic, Democrata and Mexico, then lying in the harbor of San Francisco, or either of them, to produce said Clodomiro Cota before the said superior court of said city and county of San Francisco.

That thereafter such proceedings were had in said superior court of San Francisco, that on the 8th day of December, 1880, said superior court of the city and county of San Francisco ordered warrants to issue out of said court and under the seal thereof, and directed to the sheriff of the city and county of San Francisco, requiring and commanding him, the said sheriff of the city and county of San Francisco to take said Clodomiro Cota wherever found, and to bring him, the said Cota, before said court, to be dealt with according to law; and at the same time a warrant was also issued by said superior court, under the seal thereof, and directed to said sheriff, commanding him to arrest A. Cerisola, the commander of the said Democrata, an armed ship of war of the Government of Mexico, and sailing under the flag of that nation.

13 That the undersigned, knowing that should resistance be offered by the Mexican naval authorities on board the said ship Democrata to the execution of said warrants by said sheriff, issued by said superior court as aforesaid, a conflict might arise which would endanger the amicable relations existing between the Government and people of the United States and the Government and people of the Republic of Mexico; that upon the consideration of such an impending conflict, and deeming it his duty to take the proper steps and measures to avoid it before the situation should become more complicated, the undersigned decided to remove the object of contention, and therefore repaired immediately on board of said ship Democrata and demanded from the commander of the squadron of the Pacific of the Mexican navy, J. O. Monasterio, in whose custody said Cota then was, on board of said ship Democrata, the delivery of said Cota to him; the undersigned having made the proper application in writing to that effect. That said demand having been complied with and said Cota delivered into the custody of the undersigned, he was on the same evening conducted on shore by the undersigned and placed for safe-keeping in the hands of the police authorities of the city of San Francisco, to
14 be held by said authorities at the disposal of the undersigned, who claims the custody of and is authorized to hold said Cota by virtue of said warrant of the Governor of the State of California; that said Cota was so left in the city prison to await further developments in the case.

That thereafter, and on the morning of the 9th day of December, 1880, as the undersigned is informed and believes, said Cota was taken from the custody of the police authorities of said city and county by some person or persons unknown, and taken thence to the county jail of said city and county, but by what authority, if any, this was done the undersigned is not informed.

That thereafter such proceedings were had in said superior court of the city and county of San Francisco that said Cota was ordered into the custody of the said sheriff of said city and county by said superior court.

That thereafter such further proceedings were had in said matter by

said superior court that on the 17th day of December, 1880, said superior court ordered that said writ of habeas corpus so issued as aforesaid by said court in said matter be dismissed and that said Cota be remanded to the custody of the undersigned. And on the same day an order was
15 made by the judge of said superior court, under his hand, directed to the sheriff of said city and county, commanding him the said sheriff, in whose illegal custody said Cota then was, to deliver said Cota to the undersigned; that said order of said judge was presented to said sheriff, and a demand made upon him by the undersigned for the custody and control of said Cota, but said sheriff declined and refused to obey said order of said judge of said superior court, and refused to surrender said Cota to the undersigned, alleging as a reason for such action and refusal that a writ of habeas corpus issued out of this honorable court requiring him the said sheriff to produce the body of said Cota before this honorable court at 11 o'clock of the forenoon of that day had been duly served upon him before the order of said superior court was made or signed by said judge.

This return is made without any formal acknowledgment of the jurisdiction of this honorable court, and without waiving any of the rights and privileges of the Government of Mexico which he has the honor to represent in the city of San Francisco.

And the undersigned begs leave further to say, that he has cor-
16 responded with the officers of the government which he has the honor to represent and he is instructed by his government to rely upon the warrant of the governor of the State of California and the proceedings taken before the said governor of the State of California in this matter.

JOAQ. G. CONDE,
Consul of Mexico.

17 STATE OF CALIFORNIA,
Executive Department:

The people of the State of California to any sheriff, constable, marshal, or policeman of this State, greeting:

Whereas it has been represented to me by the governor of the state of Lower California that Manuel Marquez de Leon, Jesus Alvarez, and Clodomiro Cota stands charged with the crime of kidnapping, committed in the state of Lower California, and that Manuel Marquez de Leon, Jesus Alvarez, and Clodomiro Cota have fled from the justice of that state and have taken refuge in the State of California, and the said governor of Lower California having, in pursuance of a "treaty between the United States of America and the Republic of Mexico for the extradition of criminals," concluded at Mexico December 11th, 1861 (ratifications exchanged at Mexico May 20th, 1862), demanded of me that I shall cause the said Manuel Marquez de Leon, Jesus Alvarez, and Clodomiro Cota to be arrested and delivered to Joaquin Garcia Conde, consul of the United States of Mexico in San Francisco, who is authorized to receive them into his custody and convey them back to the said state of Lower California.
18 And whereas the said representation and demand is accompanied by twelve affidavits, whereby the said Manuel Marquez de Leon, Jesus Alvarez, and Clodomiro Cota, charged with said crime of kidnapping,

and with having fled from state and taken refuge in the State of California, which are certified to be authentic:

You are therefore requested and required to arrest and secure the said Manuel Marquez de Leon, Jesus Alvarez, and Clodomiro Cota, wherever they may be found within this State, and deliver them into the custody of Joaquin Garcia Conde aforesaid, to be taken back to the state from which they fled, pursuant to the said requisition and the terms of said treaty, he the said Joaquin Garcia Conde defraying all costs and expenses incurred in the arrest and securing of said fugitives.

You will make return to this department of the manner in which this warrant has been executed.

In witness whereof I have hereunto set my hand and caused the great seal of the State to be affixed this the 11th day of November, in the year our Lord one thousand eight hundred and eighty.

{ GREAT SEAL OF THE STATE OF CALIFORNIA. }

GEORGE C. PERKINS,
Governor of the State of California.

By the governor:

D. M. BURNS,
Secretary of State,
By THOS. H. REYNOLDS,
Deputy.

(Endorsed:) Filed January 4th, 1881. L. S. B. Sawyer, clerk. By J. F. O'Beirne, d'p'y cl'k.

19 *Requisition of political chief of Lower California.*

[Sello. Gobierno político comandancia militar, etc.]

SEÑOR GOBERNADOR: Cabeme la honra de dirigirme á Ud. en uso de la facultad que me confiere el artº 2 del tratado celebrado entre el gobierno Mexicano y el de los Estados Uindos de América en once de Diciembre de mil ochocientos sesenta y uno.

Tiene por objeto esta comunicacion pedir la extradicion de los ciudadanos Mexicanos existentes en ese Estado nombrados Manuel Marguez de Leon, Clodomiro Cota y Jesus Alvarez todos reos, como autor el primero y ejecutores ó autores los segundos, del delito de plagio cometido en las personas de varios ciudadanos Mexicanos pacificos vecinos de esta ciudad y del mineral del Triunfo durante el tiempo del trastorno público que inició y acaudilló Dⁿ Manuel Marquez de Leon en este territorio en Octubre del año próximo pasado.

El articulo tercero del referido tratado enumera entre los casos de estradicion el del delito de plagio, definiéndolo: "el aprehender y elevar consigo á una persona libre por fuerza ó engaño;" y tal es el delito cometido por órden de Marquez de Leon en las personas de los ciu-
20 dadanos Miguel Palacio, Maximiano Valdovinos, Francisco Cabezud, Astolfo E. Mendoza, Julian H. Cota, Latuaro Ramirez, Antotonio Ruffo, Ramon Balarezo, Aniceto Bañuelos, José Ygnaico Arce, Gregorio Padilla, Margarito Falcon, Celso Gil y de la Señora Maria de Vivez y ejecutado por sus agentes Clodomiro Cota y Jesus Alvarez segun se comprueba por las declaraciones de las mismas victimas de tales atenta-

dos, las que, en la forma conveniente fueron recibidas por el Juez de 1ª ynstancia de este Partido donde pasaron los hechos y los que acompaño á esta comunicacion en treinta fojas útiles.

Esas disposiciones forman la evidencia legal de la comision del crimen como de sus autores segun la legislacion Mexicana, pues que son contestes y hechos por personas con toda la aptitud legal necesaria para que sus dichos hagan fé, esperando el infrascrito que en la legislacion Americana tengan tambien la eficacia legal debida.

Lonzado Dn. Manuel Marquez de Leon á la revuelta, hizo la guerra al gobierno establecido salvando los limites del sagrado derecho de propiedad y de las garantias individuales consignadas en nuestra constitucion y reconocidas en todos los paises civilizados como fundamento de todo derecho civil que, aun los revolucionarios,
21 tienen el mayor interes en respetar. No se sujetó á hacerse de los caudales públicos ni siguiera, á decretar impuestos bajo la apariencia de la forma legal en que se advirtiera la equitativa proporcion en el cobro de la gabela, sinó que llevó á efecto sus estorsiones en las fortunas señalados individuos pacíficos haciendolos aprisionar y privandoles del alimento y del aqua hasta que entregaron las fuertes sumas que les exéjia por medio de sus agentes. Tales hechos, de naturaleza completamente diversa de la de los crimenes ó delitos puramente políticos de que habla el artículo 4 del referido tratato de once de Diciembre de mil ochocientos sesenta y uno, constituyen á los referidos Manuel Marquez de Leon, Clodomiro Cota y Jesus Alvarez, reos del crímen de plagio y, como toles, sujetos á la extradicion que permite el artículo 3° del mismo tratado, la que, en debida forma, solicita de la auteridad de Ud. el gobierno de mi cargo.

Remito á Ud. esta comunicacion y sus adjuntos documentos, así como las filiaciones de los reos, por conducto del consul Mexicano en San Francisco, quien está encargado de hacer los gastos de detencion y extradicion de aquellos.

22 Esta ocasion me propreciona la de ofrecer á Ud. las seguridades de mi atenta consideracion.

Libertad y constitucion.

La Paz, Octubre dies y seis de 1880.

T. MONTIEL.

A su excelencia el gobernador del Estado de Alta California, República de los Estados Unidos de América.

23 *Translation of requisition of political chief of Lower Cal'a, and stipulation in relation thereto.*

[Seal of the political chief of Lower California.]

SEÑOR GOVERNOR: I have the honor of addressing myself to you in the exercise of the powers which are conferred upon me by article second of the treaty entered into between the Mexican Government and that of the United States of America on the 11th day of December, 1861.

The object of this communication is to ask for the extradition of the Mexican citizens who are in that State, named Manuel Marquez de Leon, Clodomiro Cota, and Jesus Alvarez, all guilty, the first as author (autor) and the two latter as executors or authors of the crime of kidnapping,

committed upon the persons of several Mexican citizens, peaceable residents of this city and of the mining district of El Triunfo, during the period of a public disturbance initiated and headed by Manuel Marquez de Leon, in this territory, in October of last year.

Article third of the said treaty enumerates among the cases for extradition the crime of kidnapping, defining it to be "the act of taking and carrying away a free person by force or deception," and such is the offense committed by order of Marquez de Leon on the persons of the citizens Miguel Palacio, Maximiano Valdovinos, Francisco Cabezud,
24 Astolfo E. Mendoza, Julian H. Cota, Lautaro Ramirez, Antonio Ruffo, Ramon Balareso, Ancieto Bañuelos, José Ygnacio Arce, Gregorio Padilla, Margarito Falcon, Celso Gil, and that of Mrs. Maria de Vives, and executed by his agents, Clodomiro Cota and Jesus Alvarez, as is verified by the depositions of the victims themselves of such offences, which depositions in due form of law were taken by the judge of first instance of the district where the acts were committed, and which I accompany with this communication in thirty leaves.

Those proceedings constitute the legal evidence of the commission of the crime, as well as of its authors, according to Mexican legislation, the same being concurrent, and made by competent persons, so that their statements are entitled to faith; and the undersigned hopes that according to the legislation of the United States those proceedings may also have due legal force.

Don Manuel Marquez de Leon, having plunged into a revolt, made war against the established government, overstepping the limits of the sacred right of property and the personal guarantees expounded in our constitution, and recognized in all civilized countries as the foundation of every civil right which even revolutionists have the greatest inter-
25 est in respecting. He did not confine himself to seizing the public funds, nor even to decree impositions under the appearance of a form of law, wherein an equitable apportionment in the collection of the tax might have been observed, but he effected his extortions from the fortunes of certain peaceable individuals by imprisoning and depriving them of food and water until they delivered the large sums which he exacted of them through the medium of his agents. Such deeds of a nature entirely contrary to that of purely political crimes or offences mentioned in article 4th of the said treaty of the 11th of December, 1861, constitute the said Manuel Marquez de Leon, Clodomiro Cota, and Jesus Alvarez guilty of the crime of kidnapping, and as such subject to the extradition which is authorized by article 3d of the same treaty, which in due form of law is requested of you by the government under my charge.

I transmit to you this communication and its enclosed documents, together with a description of the offenders, through the medium of the Mexican consul in San Francisco, who is authorized to pay the expenses of their detention and extradition.

I avail myself of this opportunity to offer you the assurances of
26 my attentive consideration.

Liberty and constitution.

La Paz, October 16th, 1880.

T. MONTIEL.

To his excellency the governor of the State of California, Republic of the United State' of America, Sacramento.

27 It is hereby stipulated and agreed by and between the respective counsel in the matter of Clodomiro Cota, on petition for discharge on writ of habeas corpus, that the foregoing is a correct translation from the Spanish into the English language of a certain document mentioned the return to the writ of habeas corpus, and annexed thereto as the requisition made by the political chief of Lower California, Republic of Mexico, to the governor of the State of California for the extradition of the said Clodomiro Cota.

San Francisco, Cal., January 31st, 1881.

PEACHY & GALAN,
Attorneys for Petitioner.
MILTON ANDROS,
Attorney for Joaquin G. Conde, Consul, etc.
PHILIP TEARE,
Attorney for the United States.

28 *Proceedings touching investigation instituted by authorities of Lower California.*

1880.

Número 161.

Averiguacion promovida por el Gobierno político y comandancia militar del territorio para el esclarecimiento de los hechos que su comunicacion expresa.

[Sello del Juzgado de 1ª Instancia.]

[Sello del Gobierno político y comandancia militar, &c.]

Necesitando el Gobierno político y comandancia militar de mi cargo hacer constar de una manera legal y fehaciente los actos de plágio y violencia contra las personas y propiedades de varios vecinos de este partido cometidos por Dn Manuel Marquez de Leon, ó por su órden durante los últimos dos meses del año anterior y en los que él haya figurado como auxiliar, principal ó cómplice, se servirá U. practicar las informaciones debidas examinando desde luego sobre dichos puntos á los ciudadanos Miguel Palacio, Astolfo Mendoza, Cirilo Mendoza, Francisco T. Cabezud, Ygnacio Escalante y Maximiano Baldovino, así como á los que estos mismos
29 citen por hechos de igual naturaleza de que hayen sido victimas y á los demas que este Gobierno le señalará, remitiendo con la brevedad posible la copia ó testimonio de las diligencias que practique.

Libertad y Constn.
La Paz, Setiembre 24. de 1880.

RICARDO CARRICARTE,
ANTONIO CANALIZO, *Seco.*

Al Juez de 1ª Instª del partido presente.

[Sello del Juzgado de 1ª Instancia.]

La Paz, *Setiembre veinti cinco de mil ochocientos ochenta.*

En vista de la comunicacion del Señor Gefe Político y comandante militar de este Territorio, hagase la averiguacion que solicita, citandose á las personas cuyos nombres menciona, para que sean examinados y practiquense cuantas diligencias sean conducentes al esclarecimiento de los hechos que se trata de hacer constar.

Así lo decretó y firmó el Cº Lic. Gabriel Maria Ycaza Juez de 1ª Instancia del partido sur de la Baja California con los de asistencia. Doy fé.

G. M. YCAZA.

30 A.:

E. Pelaez.

A.:

F. R. Cota.

En la misma fecha se libró oficio al Triunfo á Don Ygnacio Escalante citandolo para el miercoles veintinueve del presente á las once de la mañana. Conste.

En vientiocho del mismo se citaron á los Sres. Miguel Palacio, Maximiano Valdovinos, Astolfo E. Mendoza, Cirilo N. Mendoza y Francisco J. Cabezud. Conste.

[Sello del juzgado de 1ª Instancia.]

En la misma fecha presente en el Juzgado el Co. Miguel Palacio preguntado per sus generales previa la protesta de la ley, dijo: llamarse como queda dicho, de treinta años de edad, soltero, comerciante, natural de San José y vecino de éste Puerto. Interrogado sobre los hechos que se tratan de esclarecer, dijo: que el veinti-cinco de Noviembre del año próximo pasado citó Don Clodomiro Cota al que contesta justamente con los Señores Francisco J. Cabezud, Julian H. Cota, Maximiano Valdovinos, Lautaro Ramirez, y Antonio Ruffo, á la Casa de Gobierno de este
31 Puerto en donde les hicieron saber la cantidad que á cada uno de ellos le exigia apercibidos de quedar en calidad depresos mientras no la entregara y privados de cama, agua y alimentos asignandole al que contesta trescientos pesos, que los primeros dias algunas personas podian introducirles ocultamente galletas y alguna botella de agua pero despues al que declara lo pusieron en un calabozo en union de Don Astolfo Mendoza adonde estuvieron dia y medio sin poder tomar agua ni alimento de ninguna especie por lo que se vió precisado á entregar cien pesos para salir de la prision lo que habia durado cinco dias, que á Don Astolfo Mendoza lo habian traido del Triunfo y aunque en esta ciudad aprehendieron tambien á Don Cirilo Mendoza lo pusieron en libertad haciendo valer que él era dependiente de la misma casa de que era socio y gerente Don Astolfo Mendoza, que posteriormente previnieron que cada una de las casas de comercio entregara el diario que les designaron tocandole á de H. A. von Borstel la de cinco pesos diarios lo que se entrego por el tesnor de lo que pudieran hacer: que despues exigieron tambien diversas cantidades tocando

cien pesos á la que representaba el declarante y que se entrego por la
32 misma rason que las anteriores ascendiendo á poco mas ó menos de quinientos ó seiscientos pesos entre las exacciones en dinero efectivo y los efectos que tomaban de la tienda sin pagarlos todo lo que se hacia por Don Clodomiro Cota, segundo de Marquez y por órden de esta; que se dicen otras muchas exacciones y arbitrariedades cometidas por Don Manuel Marques de Leon valiendose al afecto del mismo Clodomiro Cota de las que no tiene datos ciertos y precisos el que contesta y por lo mismo no hace mencion de ellas. Esto dijo y firmo ratificando su anterior declaracion leida que le fué. Por ante mi y los de asistencia. Doy fé agregando al tiempo de firma que el declarante era el representante de H. A. von Borstel. Doy fé.

M. PALACIO.
YCAZA.

A.:

E. PELAEZ.

A.:

F. R. COTA.

[Sello del juzgado de 1ª Instancia.]

En la misma fecha presente en el Jusgado el Co. Maximiano Valdovinos preguntado por sus generales, previa la protesta de la ley, dijo llamarse como queda dicho, soltero, de veintiocho años de edad, natural de Guadalajara y vecino de este Puerto, de profesion comerciante. Interrogado sobre los
33 hechos que se tratan de esclarecer, dijo: que en ventitres de Noviembre del año proximo pasado entraron aquí las fuerzas de Don Manuel Marques de Leon y el veinticuatro se citaron á varias casas de este Puerto casi á todas y entre ellas á la de Pablo Hidalgo y Compª por la que concurrió el que contesta; que los recibio Don Clodomiro Cota á quien habia dejado Marquez en calidad de Gefe Político, que el expresado Cota les dijo; que necesitaba cinco mil pesos para los gastos de la fuersa que tenian y que las personas citadas debiamos entregar cuotisandonos nosotros mismos para que las cuotas que se designaran formaran esa cantidad; que todos se rehusaron y los citaron para las nueve del dia siguiente veinti cinco del expresado mes de Noviembre, que en ese dia no habiendose cuotisado se hizo la cuotisacion por el propio Cota y el Secretario Fernando Erquaga asignando á la casa que representaba el que contesta dos mil pezos; que rehusandose todos á entregar las cantidades que se les habian asignado los pasaron en calidad de presos á la carcel, privados de cama, agua y comida; que habiendo conseguido la Señora de Don Pablo Hidalgo, de Don Manuel Marques que llevaran comida al que contesta, al llegar esta no per-
34 mitio Don Clodomiro la entrada; que en vista de eso, la propia Señora se valio de otras personas para que arreglaran el negocio, lo que hicieron entregando dos cientos pezos en dinero y el resto en efectos hasta el completo de ochocentos pesos; que apenas se pagaba un prestamo exigian otro, volviendo á sujetar á prision á los representantes de las casas de comercio hasta que se les entregaba la cantidad que deseaban amenasando tambien con llevarlos á pié hasta el Cajon de los Reyes, y cometiendo tropelias de entrar hasta el último rincon de las casas y dando órden de llevar presa á Doña Maria de Vives sino encontraban en la casa á su hijo Gaston mandando vales á las casas; por los efectos ó dinero que se les ocurria; que á la casa del Señor Pablo Hidalgo le sacaron en dinero y efectos cuatro

mil pesos poco mas ó menos; poniendo tambien preso á otro dependiente de esa casa en una ves que no pudieron encontrar al declarante. Leida que le fué su declaracion dijo recordar que la primera cuota que se asignó á la casa que representaba fué de mil pesos y no dos mil como habia dicho ratificandola en seguida y firmando por ante mi y los de asistencia. Doy fé.

MAX° BALDOVINOS.
YCAZA.

A.:
E. PELAEZ.
A.:
F. R. COTA.

35 [Sello del Juzgado de 1ª Instancia.]

En la misma fecha se presentó en este Juzgado Don Francisco J. Cabezud y preguntado por sus generales, previa la protesta de la ley, dijo: llamarse como queda dicho, soltero, de veintinueve años de edad, natural de Autlán y vecino de este Territorio, profesion comerciante. Interrogadó sobre los hechos que se trata de esclarecer, dijó: que el veinticuatro de Noviembre del año pmo. pdo. fueron citados todos los representantes ó dueños de las casas de comercio de este Puerto por órden de Don Manuel Marques de Leon para la casa de Gobierno donde los recibió Don Clodomiro Cota presentandose el que habla por la casa de Don Gregorio Rivera á quien entonces como ahora representa; que en la junta les manifestó el Señor Cota que el objeto del llamado era; que le dieran seis mil pesos que el Sr. Marques necessitaba para el sostenimiento de las fuerzas haciendole ver los citados lo díficil que era para ellos entregar en esos momentos la cantidad que fijaba la redujo á cinco mil diciendoles que ellos mismo se cuotisaran fijandose á cada uno una cantidad para que todas ellas reunidas hicieran los cinco mil pesos que debian entregar, que rehusandose á hacer esa cuotisacion los citó para el dia siguiente veinticinco á las nueve de la mañana
36 pre viniendoles que trajeran ya la indicada cuotisacion, que se presentaron efectivamente al dia siguiente sin haber hecho esa cuotisacion por lo que la hizo personalmente el propio Don Clodomiro Cota y se las manifesto: que no estando conforme ninguno en entregar la cantidad que le habian designado, los mandó presos á la cárcel entre soldados privados de cama, agua y comida y aun de salir del recinto de la puerta de la piesa que les designaron; que el que habla viendo que el General Marques estaba en la puerta de la cárcel solicito hablarle lo que consiguió pero sin resultado pues á todo lo que le hiso valer le contestó que "si no le daba la cantidad que le estaba designada á Don Gregorio Rivera remataria la casa pues de todos modos la habia de sacar;" que al dia siguiente lo mandó llevar á su presencia Don Clodomiro Cota despues de treinta y seis de prision y despues de una larguisima conferencia se vio precisado el que habla á darle trescientos pesos en dinero efectivo y el completo hasta ochocientos en efectos que despues impusieron á todas las casas el pago de un diario para el sostenimiento de las fuerzas tocando veinte pesos á la casa que representa el que contesta, que no obstante el pago de ese diario sacaban con frecuencia los efetos que se les ocurria habiendo sacado
37 al Sor. Don Gregorio Rivera de siete á ocho mil pesos entre las exacciones hechas á la casa de este Puerto y á la sucurzal que tiene

en el Triunfo. Que no sabe mas ratificando esta su declaracion leida que le fué y firmando por ante mi y los de asistencia. Doy fé.

F. J. CABEZUD.
YCAZA.

A.:
E. PALAEZ.

A.:
F. R. COTA.

[Sello del juzgado de 1ª Instancia.]

En veintinueve del mismo se presentó en el juzgado el Cº Astolfo E. Mendoso, y previa la protesta de la ley, fué preguntado por sus generales y dijo: llamarse como queda dicho, de veintisiete años de edad, soltero, natural de San Antonio y vecino de este Puerto, de profesion comerciante. Interrogado sobre los hechos que se trata de esclarecer, dijo que en cinco de Noviembre del año pmo. pdo. estalló en el Mineral del Triunfo la revolucion que acaudillaba Don Jesus Alvares, en cuya fecha se encontraba el que contesta en ese mineral; que inmediatamente impusieron una contribucion de seis mil pesos distribuida entre todas las casas de comercio, asignandole al declarante como comerciante, que estaba al frente de la casa de Don Aristes Mendoza; la cantidad de cuatrocientos pesos, los
38 que se entregaron habiendo reducido á prision á los representantes de las otras casas que no hicieron la entrega, conservandolos en esa prision hasta que las entregaron; que en este momento recuerda que el monto de esa contribucion nó fué el de seis mil pesos sino el de dos mil poco mas ó menos; que unos dias despues se salieron las fuersas del Triunfo dirigiendo se á este Puerto de La Paz; que del dies y ocho al veinte del propio mes de Noviembre se presentó por las inmediaciones del mineral Don Claudio Zapata con cincuenta caballos poco mas ó menos y los vecinos del Triunfo se resolvieron á defenderse poniendose á la cabeza de la defensa el presidente municipal Don Manuel Navarro no habiendo podido entrar las fuersas discidentes hasta el veintiuno ó veintidos en que llegó Don Manuel Marques de Leon con el resto de sus fuersas haciendo enteramente imposible la defensa por lo que se rindieron que dando todos los que habian tomado las armas en clase de prisioneros entre los que se encontraba el declarante; que Marques les dijo que debia imponerles á todos los que habian tomado parte en la defensa, la pena de confiscacion de todos sus bienes pero queriendo mitigar la pena, les imponia solo la de entregar seis mil pesos, cincuenta rifles y cincuenta pistolas, cuya cantidad de dinero y armas determinarian ellos mismos
39 asignando la cantidad de numerario y las armas que á cada uno le correspondian, haciendo además la protesta de no volver á tomar las armas en contra del expresado Marquez; que despues Marques se vino para La Paz y no habiendo se hecho la cuotizacion por los mismos detenidos, la hizo Don Clodomiro Cota asignando al que declara la de ochocientos pesos y rehusandose á entregarlos se lo trajo desde el Triunfo hasta este Puerto de La Paz á pie que son diez y ocho leguas, en union de Margarito Falcon, Espiridion Galindo, Celso Gil é Ygnacio Escalante; que este ultimo no pudiendo ya caminaro por venir enfermo á cosa de una milla del citado Mineral del Triunfo ofreció entregar la cantidad que se le

habia designado por lo que se volvio con una gente de Cota para que la entregara dejandolo libre en su casa; que elegando al Puerto de La Paz pusieron en la guardia de prevencion al comparente en union de Espiridion Galindo Celso Gil, Margarito Falcon y el Presidente del Ayuntamiento Don Manuel Navarro, que al dia siguiente unieron á los anteriores en calidad de presos á los Sres. Julian H. Cota, Antonio Ruffo, Lautaro Ramirez Francisco J. Cabezud, Maximiano Valdovinos y Miguel
40 Palacio privados de cama, agua y alimentos, por lo que pueron todos obligados á hacer mas ó menos pronto algun arreglo para hacer cesar la cituacion en que se encontraban habiendo tenido el que habla la necesidad de entregar doscientos cincuenta pesos despues de haber pasado cuatro dias en un calabozo de la carcel sin comer nada ni beber agua; que despues le asignaron diez pesos diarios por la casa de comercio de su propiedad que tiene en este Puerto la que no fué bastante para evitar nuevas exacciones de dinero y efectos habiendo ascendido á cuatro ó cinco mil pesos lo que sacaron al que habla en todo el tiempo de la revolucion que es cuanto puede decir por no saber mas ratificando su declaracion leida que le fué y firmando por ante mi y los de asistencia. Doy fé.

A. E. MENDOZA.
YCAZA.

A.:
E. PELAEZ.
A.:
F. R. COTA.

En la misma fecha se recibió y agrega á este expediente la contestacion de Don Ygnacio Escalante á la citacion que se le hizo por el juzgado. Conste.

[Sello del juzgado de 1ª Instancia.]

En treinta del mismo presente en este juzgado el Sr. Dn. Julian
41 H. Cota, preguntado por sus generales, previa la protesta de la ley, dijó: llamarse como queda dicho, casado, de cuarenta y tres años de edad, comerciante. Interrogado en seguida sobre los hechos que se tratan de esclarecer, con motivo de la referencia que de él se hace en las anteriores declaraciones, dijo: que en veinticuatro de Noviembre del año próximo pasado fueron citados de órden del Sr. Manuel Marquez de Leon á la casa de Gobierno los patronos ó representantes de las casas de comercio de este Puerto, que allí fueron recibidos por Dn. Clodomiro Cota, quien les manifestó que el Sr. Marquez tenia necesidad de una cantidad de dinero, que debian pagar las personas citadas asignándose entre ellos mismos la cuota que á cada uno le debia corresponder, que en el momento no recuerda el que declara el monto de la cantidad total. Que todos los que concurrieron se negaron á hácer la exhibicion que se les pedia, reusándose tambien á verificar por si mismos la cuotisacion que deseaba Dn. Clodomiro Cota, que un poco de tiempo despues les dijeron que se retiraran para volver el veinticinco del propio mes de Noviembre á las nueve de la mañana á cuya hora deberian presentar la cuotizacion indicada; que se peresentaron el veinticinco sin haber hecho
42 esa cuotizacion y entonces la hizo personalmente Dn. Clodomiro Cota, asignándole á la casa de Cota y Pelaez que, el que contesta repre-

sentaba, la cantidad de mil ochocientos ó dos mil ochocientos pesos, que ninguno estuvo conforme con la cuotizacion indicada y se reusaron á hacer el pago por lo que pueron todos reducidos á prision y privados de cama, agua y comida, por lo que cada uno de ellos se fué arreglando en la forma que pudo para hacer sesar la situacion en que se encontraban, habiendo tenido necesidad el que contesta de entregar por los Sres. Cota y Pelaez que representaba la suma de seiscientos pesos, que despues les fijaron una cantidad que debian entregar diáriamente asignando á esta casa la de veinte pesos, sin que esto fuera bastante para evitar nuevas exacciones de numerario y efectos, ascendiendo á tres mil pesos el total de lo exijido en numerario y efectos en la casa que tiene la sociedad en este Puerto y en la del Triunfo, sin contar las bacas que se comieron en el rancho de "Olas Altas" y las mulas y caballos que se tomaron, que es cuanto puede decir por no saber mas ratificando esta declaracion leida que le fué y firmando por ante mi y los de asistencia. Doy fé.

JULIAN H. COTA.
YCAZA.

A.:
E. PELAEZ.
A.:
F. R. COTA.

43 Hoy he recibido una órden citatoria del Juzgado de 1ª Instª que es á su cargo para presentarme mañana á las onse 29 del que acaba, para la práctica de una diligencia judicial pero como mi salud no me permite por el momento emprender un viage que indudablemente me costaria una grave enfermedad, y no habiendo aqui un facultativo de quien sacar el correspondiente certificado para satisfacer á esa autoridad, suplico á U. Aenga la bondad, si no es posible trasmitir sus facultades al Juez de este lugar diferir à lo menos para mas tarde mi comparencia segun la naturaleza del negocio de que se trate.

Triunfo Fbre. 28 de 1880.

Y. ESCALANTE.

Cº Juez de 1ª Instª partido del sur del Territorio La Paz.

[Sello del juzgado de 1ª Instancia.]

En la misma fecha presente en el Juzgago el Cº Lautaro Ramirez preguntado por sus generales previa la protesta de la ley, dijo llamarse como queda dicho, de cincuenta años de edad, casado, natural de Sonora,
44 de profesion comerciante. Interrogado en seguida sobre los hechos que se tratan de esclarecer en virtud de la referencia que de él se hace en las anteriores declaraciones, contestó; que en veinticuatro de noviembre pmo. pdo. fueron llamados de órden de Don Clodomiro Cota que fundia entonces de Gefe Político; á la casa de Gobierno los dueños ó representantes de las casas de comercio de este puerto, donde se les manifestó la órden del General Marques de Leon que habia obligado al expresado Cota á convocar á los que estaban reunidos pues necesitando el General en Gefe seis mil pesos habia mandado se hiciera el llamado á las casas de comercio para que ellas mismas se cuotizaran designando la cantidad que cada una debia entregar

hasta completar el monto de los expresados seis mil pesos; que habiendose rehusado á verificar el pago por no serles posible se les citó para el dia siguiente veinticinco de noviembre á las nueve de la mañana previniendoles que á esa hora debian presentar la cuotizacion antes indicada; que los citados se presentaron á la hora mencionada y pidiendoles la cuotizacion manifestaron no haberla hecho porque no tenian voluntad de hacerlo ni querian entregar la cantidad que se les pedia, y satisfecho el Señor Don Clodomiro Cota de
45 que no querian darla, se levantó con enojo y dijo que el los cuotizaria en seguida entró Don Fidencio Pineda con una lista de los individuos presentes poniendole á cada uno la cantidad que ellos creyeron conveniente asignandole al que declara la de cuatrocientos pesos; que impuesto de ello el que contesta dijo que no entregaba nada manifestandalo con razones convincentes apoyando su dicho el Señor Don Julian Corta hablando tambien por el impuesto que á el se le fijaba; que esto fue lo bastante para creerse de parte del Sr. Clodomiro Cota que no entregarian ninguna cantidad de las que se les asignaba lo que dió por motivo que llamara fuersa armada y escoltados por ella les condujo á la cárcel á todos los que allí estaban; que al declarante lo tuvieron preso tres dias privado como todos de cama, agua y alimentos y aun privandolo de salir á sus mas precisas necesidades; que despues de ese tiempo salio en libertad entregando cien pesos, que despues se estableció otro préstamo el cual logró arreglar el que habla con veinticinco pesos; exigiendo en seguida una cantidad diaria habiendo tenido que pagar el comparente cinco pesos el primer dia y dos pesos los subsecuentes seniendo que sufrir vejaciones de que le
46 registraran su casa en busca de armas y de su persona y que le quitaron un caballo de precio que era de la propiedad del que contesta, ascendiendo todo lo que le quitaron á cerca de quinien tos pesos poco mas ó menos; que es cuanto sabe ratificando esta su declaracion leida que le fué y firmando por ante mi y los de mi asisteucia. Doy fé.

L. RAMIREZ.
YCAZA.

A.:
E. PELAEZ.
A.:
F. R. COTA.

[Sello del juzgado de 1ª instancia.]

En la misma fecha presente en el Juzgado el Cº Antonio Ruffo preguntado por sus generales previa la protesta de la ley dijo; llamarse como queda dicho, de treinta y nueve años de edad, soltero, natural y vecino de este puerto, de profesion comerciante. Interrogado sobre los hechos que se tratan de esclarecer, dijo; que el veinticuatro de noviembre del año próximo pasado fueron citados por órden de Dn. Manuel Marquez de Leon los Jefes ó encargados de las casas de comercio de este puerto á la casa de gobierno, en donde fueron recibidos por Dn. Clodomiro Cota, que les hizo presente una comunicacion del espresado Marquez in que desia que necesitaba una cantidad de dinero, que no recuerda el que contesta si era de trese mil pesos que debian
47 entregar las casas de comercio de este puerto, las que debian cuotizarse dentre ellas mismas fijando la cantidad que cada una debia

entregar que los citados manifestaron que no les era posible exhibir cantidad alguna y que por lo mismo no podian hacer la cuotizacion que se les prevenia, que de esto dio aviso á Dn. Manuel Marquez y en seguida les hizo saber de uno en uno la cantidad que debia entregar, diciendoles que la habia de sacar de cual quiera manera que fuera y que si no se la entregaba los pondria presos sin permitirles que comieran ni tomaran agua hasta que la entregaran como efectivamente lo hizo en el momento en que cada uno le manifestó que no podia hacerlo, que á la casa de Gonzales y Ruffo le asignaron tres mil pesos que en este estado se vieron todos precisados á hacer algun arreglo que pusiera término á la situacion en que se encontraban; que la casa del comparente tuvo necesidad de entregar ochocientos pesos, cuatrocientos en dinero y cuatrocientos en efectos, que despues establecieron otros préstamos reduciendo inmediatamente á prision si no se les entregaba en el término que señalaban, que en seguida fijaron una cuota diaria asignando veinticinco pesos á la casa del exponente,
48 sin perjuicio de ir cuando lo tenian por conveniente á la casa á sacar dinero ó efectos ascendiendo á poco mas de tres mil quinientos pesos lo que exijieron á la casa de Gonzales y Ruffo en este puerto y en la casa que tiene en el Triunfo, que es cuanto tiene que decir ratificando esta declaracion leida que le fué y firmando por ante mi y los de mi asistencia. Doy fé.

A. RUFFO.
YCAZA.

A.:
F. R. COTA.
A.:
E. PELAEZ.

[Sello del Juzgado de 1ª instancia.]

En primero de octubre se trasladó el presente juez con los de su asistencia á la casa de la Sra. Maria de Vives para tomar su declaracion por referencia que de esta Señora se hace en las anteriores diligencias y preguntada por sus generales, previa la protesta de la ley, dijo: llamarse como queda dicho, natural de Francia, vecina de este puerto, de cincuenta años edad, viuda, dueña del Hotel "Progresos." Interrogada en seguida sobre los hechos que se tratan de esclarecer, dijo; que á fines de diciembre del año proximo pasado, se presentaron en su casa dos agentes de Dn. Clodomiro Cota, segundo de Dn Manuel Marquez de Leon, con una órden para que el hijo de la declarante Sr. Gaston Vives
49 entregara en el acto doscientos pesos, que su hijo pudo retirarse de la casa sin que lo notaran esos agentes y no encontrándolo despues de haberla registrado toda se empeñaron en que la declarante los acompañara al cuartel y habiendose reusado fueron avisar á Dn Clodomiro, el que dió órden que llevaran á la que contesta, que entre tanto, la declarante cerró todas las puertas de su casa, que despues vinieron á tocar y no les abrió, y habiendo sabido un amigo de la casa que habian dado órden de romperlas, entregó al propio Dn. Clodomiro por la que contesta los doscientos pesos que le exijia los que cubrió como era debido á la persona que habia verificado el pago. Que es cuanto puede decir por no saber mas,

ratificando su declaracion leida que le fué por ante mi y los de asistencia. Doy fé.

M. VIVES.
YCAZA.

A.:
E. PELAEZ.
A.:
F. R. COTA.

[Sello del Juzgado de 1ª Instancia.]

LA PAZ, *octubre dos demil ochocientos ochenta.*

Librese oficio al Secretario del Gobierno Político y militar de este Territorio, avisandole estar examinados todas las personas expresadas en la comunicacion de ese Gobierno de veinticuatro del pasado y las que por ellas se se citaron; encargandole de cuenta con esta comunicacion, para que en respuesta diga si se dá por terminada esta informacion ó quedan por declarar algunas otras, indicando sus nombres en este caso. Así lo decretó y firmó el Cº. Lic., Gabriel Maria Ycaza, Juez de 1ª instancia de la Baja California con los de su asistencia. Doy fé.

G. M. YCAZA.

A.:
FELIPE R. COTA.
A.:
E. PELAEZ.

Se agrega la minuta de la comunicacion librada en cumplimiento del anterior auto. Conste.

Se recibió y agrega en una foja la contestacion del Gobierno Político del Territorio á la comunicacion anterior. Conste.

LA PAZ, *octubre dos demil ochocientos ochenta.*

Se dá por terminada la anterior informacion. Remitase original al Gobierno Político de este Territorio así lo decretó y firmó el Cº Lic. Gabriel Mª Ycaza, Juez de 1ª instancia del Partido Sur de la Baja California con los de su asistencia. Doy fé.

G. M. YCAZA.

A.:
F. R. COTA.
A.:
E. PELAEZ.

[Sello del Juzgado de 1ª Instancia.]

Examinadas las personas que se sirvió indicarme ese Gobierno Político y comandancia militar en su comunicacion de 24 del pasado, así como las que éstas citaron por hechos de la clase que se trata de hacer constar, espero se sirva U., dar cuenta con esta comunicacion para que se me diga si se dá por terminada la informacion ó quedan por declarar algunas otras, indicándome sus nombres en este caso.

Reiteró á U. las atenciones de mi consideracion y apreció.
Lib. y Constn.
La Paz, octubre 2 1880.
Al Srio de las Gobiernos Político y Militar de este Territorio presente.

[Sello del Juzgado de 1ª instancia.]

En la misma fecha se remiten estas actuaciones originales al Gobierno Político del territorio en catorce fojas utiles. Conste.

52 [Sello del Gobierno Político y comandancia militar.]

Impuesto este gobierno del oficio de Ud. fecha de hoy, en que manifiesta estar terminadas las diligencias que se le pidió practicara por comunicacion 24 del proximo pdo. setiembre, debo decir á Ud. que se sirba remitirlas originales á esta Jefatura, y en su vista se determinará si se tienen que practicar otras.
Lib. y constitucion.
La Paz, octubre 2 de 1880.

A. E MENDOZA,
ANTONIO CANALIZO,
Secº.

Al Juez de 1ª instancia de este Puerto, Pte.

53 1880.

[Sello.]

Averiguacion promovida por la Jefatura Política del Territº sobre los hechos que espresa su comunicacion de 2 del presente.

[Sello del Juzgado de la Instancia.]

[Sello del Gobierno Político y Comandancia militar.]

Necesitando este Gobierno hacer constar de una manera legal y fehaciente los actos de plagio, violacion de las propiedades y violencias cometidas contra varios vecinos de este partido ejecutados por los llamados Jesus Alvarez y Clodomiro Cota en los últimos meses del año anterior, se servirá Ud. practicar las informaciones aebidas examinando desde luego sobre los hechos de las especies referidas de que hayan sido victimas, ejecutados por alguno de los referidos Cota y Alvarez á los ciudadanos siguientes: Aniceto Bañuelos, Margarito Falcon, Ramon Balareso y demas personas que se le indicarán, quienes expresaran con precision y claridad los hechos, sus ejecutores y si estos obraban de propia autoridad ó por mandato de otro, expresando de quien.

54 Y practicadas estas diligencias se servirá Ud. remitirlas originales á esta oficina para los usos convenientes.
Libertad y Constitucion.
La Paz octe 2 de 1880.

A. E. MENDOZA.
ANTONIO CANALIZO,
Secº.

Al Juez de 1ª Instª, presente.
Recibido el dia cuatro del corriente como á las 4 de la tarde. Conste.

[Sello del Juzgado de 1ª Instancia.]

La Paz, *octubre cuatro demil ochocientos ochenta.*

Cúmplase y al efecto citese á Dⁿ Aniceto Bañuelos para que declare, y por conducto del Juez Constitucional del Triunfo hagase la misma citacion á Margarito Falcon y á Ramon Balarezo para que el miercoles seis del corriente á las once de la mañana se presenten en este Juzgado sin escusa ni pretesto alguno para la practica de una diligencia judicial urgenticima. Lo decreté y firmé con los de mi asistencia. Doy fé.

G. M. DE YCAZA.

55 A.:

E. Pelaez.

A.:

F. R. Cota.

En cuatro del mismo se libró oficio al Juez Constitucional del Triunfo y á Don Ramon Balareso y á Don Margarito Falcon citando á estos últimos. Conste.

[Sello del Juzgado de 1ª Instancia.]

En seis del propio mes, presente en el Juzgado el Cº Margarito Falcon; preguntado por sus generales, previa la protesta de la ley, dijo llamarse como queda dicho, soltero, de ventiseis años de edad, originario del Estado de Jalisco, vecino del mineral del Triunfo, comerciante.

Interrogado sobre los hechos que se tratan de esclarecer, contestó; que el cinco de noviembre del año próximo pasado se levantó D. Jesus Alvares en el mineral del Triunfo con cosa de ochenta humbres é inmediatamente redujo á prision á todos los dueños ó representantes de las casas de comercio de este mineral inponiendoles en seguida la obligacion de entregar la cantidad que á cada uno designó conminándolos con que centinuarian presos y sin permitirles que comieran mientros no la entregaran, que por esta
56 circunstancia se vieron precisados á verificar la entrega para salir de esa situacion, tocando alque contesta la cantidad de trescientos pesos á quedó reducida la de quinientos que le impusieron, habiendo ascendido á cosa de dos mil quinientos la cantidad que sacó D. Jesus Alvarez de todos los comerciantes del mineral; que tres dias despues entró á ese mineral D. Clodomiro Cota y volvió D. Jesus Alvarez que ya habia salido de el y á los dos dias de estar allí volvieron á reducir á prision á todos los comerciantes y á imponerles la obligacion de entregar otra nueva cantidad á cada uno, habiendo tenido el que contesta la precision de entregar cincuenta pesos y ascendiendo á quuinientos pesos lo que sacaron en esta segunda vez de los propios comerciantes del Triunfo; que en los tres meses de noviembre, diciembre y enero fueron continuas las exacciones de dinero y efectos casí todos esos dias por los expresados Jesus Alvarez y Clodomiro Cota, ademas de haber estado en esos mismos meses Claudio Zapata que impuso un diario á todas las casas asignandole al que habla la de cinco pesos diários; y otra vez Manuel Marquez de Leon que exijió una cantidad á cada uno de los comerciantes, asignándole al que habla ochocientos pesos y no ha-

biendole sido posible entregarlos solo dio doscientos veinte y para obli-
57 garlo por el restó lo trageron á pié desde el mineral hasta el punto "Los Positos," dándole allí un caballo por no serle ya posible llegar, pues hay doce leguas del Triunfo á los "Positos," y en el caballo lo trajeron hasta este puerto de La Paz donde continuó por cinco diasmas so prision consiguiendo al fin que lo pusieran en libertad entregando una pistola ademas de los doscientos veinte pesos que habia entregado en el Triunfo en cuenta de los ochocientos que le exijian, ascendiendo las esacciones que hicieron al que habla á cerca de novecientos pesos. Que es cuanto puede decir por no saber mas ratificando esta su aclaracion leida que le fué y firmando por ante mi y los de asistencia. Doy fé.

M. FALCON.
YCAZA.

A:

E. PALAEZ.

A:

F. R. COTA.

En siete de octubre se recibieron y se agregan las citaciones diligenciadas de los ciudadanos Margarito Falcon y Ramon Balarezo. Conste.

[Sello del Juzgado de 1ª Instancia.]

Necesitandose en este juzgado la persona de Margarito Falcon
58 para la practica de una diligencia judicial urgentisima, le prevendrá Ud. que sin escusa ni pretesto espresente ante este de mi cargo el miercoles seis del corriente á las once de la mañana.

Libertad y constitucion.
La Paz, octubre 4 de 1880.

G. M. YCAZA.

Al juez constitucional del Triumfo.
Recibido el dia cinco á las dose y media del dia. Conste.

[Sello juzgado constitucional Baja Cal. del Triumfo.]

En la misma fecha cúmplase con lo mandado por el juzgado superior. El presente juez lo decretó y firmó con los de asistencia. Doy fé.

NUÑEZ.

A.:

JESUS CESEÑA CASTRO.

A.:

M. ALAMILLO.

Acto continuo presente el C. Margarito Falcon y enterado de la disposicion del juzgado de 1ª Instancia dijo, que la oye y firma. Doy fé.

NUÑEZ.

A.:

JESUS CESEÑA CASTRO.

A.:

M. ALAMILLO.

(On the margin:) M. FALCON.

59 En la misma fecha estando practicada esta diligencia; en una foja útil se devuelve al juzgado de su orígen. En constancia lo anoto.

NUÑEZ.

[Sello del Juzgado de 1ª Instancia.]

Nesecitandose en este juzgado la persona de Ramon Balarezo para la practica de una diligencia judicial urgenticima le prevendrá U. que sin escusa ni pretesto se presente ante este de mi cargo el miércoles seis del corriente á las once de la mañana.

Libertad y Constitucion.

La Paz, octubre 4 de 1880.

G. M. YCAZA.

Al Juez Constitucional del Triunfo.

Recibido el diá cinco á las dose y media del dia. Conste.

[Sello del Juzgado Constitucional Baja Cal. del Triunfo.]

En la misma fecha: Cúmplase con lo mandado por el Juzgado Superior. El C. Santiago G. Nuñez, Juez Constitucional, lo decretó y firmó con los de asistencia. Doy fé.

NUÑEZ.

A.:

JESUS CESEÑA CASTRO.

A.:

M. ALAMILLO.

60 En la misma fecha: notificado del auto de á dispocion del Juzgado de primera instancia dijo el C. Ramon Balarezo: Que no puede presentarse por enfermedad y por tener un negocio que no puede abandonar. Esto espreso y firmó. Doy fé.

NUÑEZ.

A.:

JESUS CESEÑA CASTRO.

A.:

M. ALAMILLO.

(On the margin:) R. BALAREZO.

En la misma fecha. Estando practicada esta diligencia en una foja útil se devuelve al Juzgado de su orígen.

En constancia lo anoto.

NUÑEZ.

[Sello del Gobierno Político y Comandancia militar.]

Resultando de los informes dados á este Gobierno que los cuidadanos, Gregorio Padilla y José Ygnacio Arce, residentes en este puerto y los vecinos del Triunfo Celso Gil y Ysidro Montion pueden declarar sobre los

hechos á que se refieren las comunicaciones de esta Jefatura fechas 24 de setiembre y 4 de oct^e he demerecer á Ud. se sirva citar á dichos individuos é interrogarles en los mismos terminos que á Aniceto Bañuelos y demas personas indicadas en la última de dichas comunicaciones, pro-
61 curando sean practicadas estas diligencias con la posible brevedad.
Lib^d const^a

La Paz, oct. 8 1880.

A. E. MENDOZA.
ANTONIO CAÑALIZO,
Sec^o.

Al Juez de 1^a Inst^a. del Partido, presente.

En ocho del mismo, octubre se recibio y queda agregada la comunicacion de esta fecha del Jefe politico del Territorio Conste.

En la misma fecha, ocho de octubre presente en el Juzgady el C^o Aniceto Bañuelos. Preguntado por sus generales, previa la protesta de la ley dijo: llamorse como queda dicho, soltero, de treinta y seis años de edad, originario de Zacatecas, vecino de este puerto. Interrogado per los hechos que se tretan de esclarecer, dijo que el cinco de noviembre del año próximo pasado, en que se levantó D. Jesus Alvarez en el Mineral del Triunfo le exijio este señor que entregara trescientos pesos reduciendolo á prision mientras no exhibiera esa cantidad, que estando en esa prision lo sacó Ponciano Romero que era una de las personas unidas con Alvarez,
62 que despues lo volvieron aprehender y lo volvió á sacar el mismo Ponciano Romero, saliendo inmediatamente del mineral tomando caminos estraviados para no ser aprehendido de nuevo, no obstante que en los tres meses de noviembre, diciembre y enero lo aprehendierou varias veces y lo volvian á poner en libertad, exijiendole fianzas para entregar diversas cantidades en los terminos que le señalaban a haciendole firmar documentos con solo su firma, habiendo sido su ruina la revolucion, pues calcula haber tenido una pérdida decerca de mil pesos por causa de esos Señores, ya por las cantidades y efectos, caballos y armas que tuvo que entregar el deprediente del que habla á que se tomaron ellos mismos, ya tambien por las pérdidas que tuva que sufrir, no pudiendo dedicarse á sus negocios, al estremo de verse precisado á hacer cesion de bienes inmediatamente que esos señores se retiraron alvenir la fuerza enviada por el Gobierno, con la cual quedo enteramente terminedo el capital de poco mas de tres mil pesos que tenia en giro el que contesta de su propiedad. Que es cuanto tiene que decir ratificando esta su declaracion leida que le fue y firmando por ante mi y los de asistencia. Day fé

ANICETO BAÑUELOS.
YCAZA.

[SELLO DEL JUZGADO DE 1^a. INSTANCIA.]

A.:
E. PELAEZ.
A.:
F. R. COTA.

63 [Sello Juzgado de 1ª Instancia.]

En once de octubre, presente el Sr. Ramon Balarezo, preguntado por sus generales dijo: llamarse como queda dicho, soltero, de veinticuatro años de edad, natural de este puerto de La Paz, y vecino del mineral del Triunfo, comerciante encargado de la sucursal que tienen en el Triunfo los Señores Gonzalez y Ruffo. Interrogado sobre los hechos que se tratan de esclarecer, contestó: que el cinco de noviembre del año próximo pasado se levantó D. Jesus Alvarez con cosa decien hombres en el mineral del Triunfo é inmediatamente exijió diversas cantidades, á los comerciantes de ese mineral reusandose á entregarlas los redujo á prision conminandolos con que no saldrian de ellas si no entregaban la cantidad que se les habia predido, que al que contesta por los Señores Gonzalez y Ruffo le asignaron la dede doscientos pesos, de los que tuvo que entregar ciento ochenta para salir en libertad, que despues elegó al mineral Clodomiro Cota y exijieron nuevas cantidades, redujendo á prision otra vez á los comerciantes, que con posterioridad estuvo tambien Manuel Marquez de Leon y volvieron á exijir otras cantidades de dinero reduciendo tambien á prision á todo el comercio privándolos de la comida y amenazandolos contraerlos á pié á este puerto de La Paz, que en los tres meses de noviembre diciembre y enero
64 pueron continuas estas estorciones y tropelias, habiendo ascendido á mil trescientos pesos la suma que tuvo que entregar el que contesta por los Señores sus representados en las diversas exacciones que le hicieron. Que es cuanto tiene que decir ratificando su declaracion leida que le fué previá la protesta de la ley y firmando por ante mi. Doy fé.

R. BALAREZO.
YCAZA.

A.:
F. R. COTA.
A.:
E. PALAEZ.

En once del mismo se agrega diligenciado el oficio dirigido al Juez Constitucional del Triunfo para que citara á los C. C. Celso Gil é Ysidro Montion. Conste.

[Sello del Juzgado de 1ª Instancia.]

En trece del mismo, presente en el Juzgado el Cº Ygnacio Arce, preguntado por sus generales previa la protesta de la ley, dijo; llamarse como queda dicho, casado, natural de Guadalajara, de treinta y cinco años de edad, y vecino de este puerto y de ejercicio, comerciante. Interrogado sobre los hechos que se tratan de esclarecer, contestó; que el cinco de noviembre próximo pasado entró al mineral del Triunfo Ponciano Romero cerca de las diez de la mañana con doce ó catorce hombres é inmediatamente
65 se les reunió Jesus Alvarez con toda la gente que tenia arreglada ya en el propio mineral, de suerte que á cosa de la una de la tarde ya tenian una fuerza de ciento á ciento cincuenta hombres, habiendo invadido todos los empeños para sacar los armas que allí habia y armarse, que sacaron de sus casas á todos los comerciantes y los pusieron presos exijiendoles que entregaran la cantidad que á cada uno le habian asignado, que el que contesta estaba en casa de Dn Aniceto Bañuelos á cayo negoc

comercio fué primero en clase de dependiente y despues, ademas de su sueldo se le asignó una parte en las utilidades; que el Sr. Bañuelos á quien se habia reducido á prision obtuvo ser puesto en libertad por Don Ponciano Romero sin haber entregado la cantidad que le estaba impuesta é inmediatamente que estuvo libre se separió de la poblacion que dando en la casa de este Señor solo el comparente, que el dia siguiente le fuevan á exijir los trescientos pesos que le habian impuesto al Señor Bañuelos y no habiéndolos entregardo lo llevaron á un lugar comun donde lo tuvieron sin comer sin tomar agua y aun sin fumar, que habiendo ofrecido cincuenta pesos fue á verlo á su prision Don Clodomiro Cota y habiendole manifestado que le era absolutamente imposible entregar la cantidad que le pedia
66 y que si queria podian tomar los efectos de la tienda, se incomodó Cota y le dio una bofetada al que contesta, que al fin Don Jesus Alvarez recibió los cincuenta pesos sin darle recibo y salió á su casa, que al dia siguiente lo volvieron á reducir á prision pª que entregara el resto de los trescientos pesos, que despues de muchas mortificaciones lo gró que lo dejaran libre entregando otros cien pesos á Manuel Castillo sin lograr que le dieran recibo ni de ésta ni de la anterior cantidad, pues Alvarez y Castillo lo mandaban con Don Clodomiro y este despues de varias evacivas le dijo que no se le habia de dar el recibo hasta que completara los trescientos peson; que estas tropelias se repetian con tanta frecuencia que el exponente se resolvió á cerrar la casa y esconder los efectos que tenia; pero ni esto le vastó, pues se ponian á golpear la puerta y temiendo que la tiraran les tenia que abrir y que entregarles la cantidad ó efectos que le pedian, pidiendola prestada á otras de las personas del mineral, que una vez aun asaltaron su casa entrando unos por el frente y otros por la espalda; que en los tres meses en que estos Señores permanecieron por el mineral del Triunfo le sacaron seiscientos dos pesos setenta y cinco centavos, que es cuanto puededecir sobre el particular, pues á estas
67 vejaciones y exacciones debe su completa ruina careciendo de todo recurso para poder trabojar, ratificando esta declaracion leida que le fué y firmando por ante mi y los de asistencia. Doy fé.

T. YGNAº ARCE.
YCAZA.

A.:
F. R. COTA.
A.:
E. PELAEZ.

[Sello del Juzgado de 1ª Instancia.]

Para la práctica de una diligéncia judicial muy urgente prevendrá Vd. á los C. C. Celso Gil é Ysidro Montion comparescan en este Juzgado de 1ª Instancia el inmediato lunes once, á las once de la mañana sin excusa ni pretexto alguno.

Libertad en la Constitucion.

La Paz, octubre 8 de 1880.

G. M. YCAZA.

[Sello del Juzgado de 1ª Instancia.]

Al Juez Constitucional del Triunfo.

Recibida el dia nueve de octubre á las dose del dia. Conste.

NUÑEZ.

[Sello Juzgado Constitucional Boja Cal. del Triumfo.]

68 En la misma fecha: notificado el C. Celso Gil dijo que lo oye, y no obstante estar quebrantado de su salud, procuraria cumplir con la disposicion de la autoridad. Lo que firmó con el Juez y los de asistencia. Doy fé.

NUÑEZ.
CELSO GIL.

A.:
ADELAIDO FLORES.
A.:
M. ALAMILLO.

Acto continuo se indagó por el paradero de Ysidro Montion y no se encontró. Conste.

NUÑES.

En la misma fecha no habiendo mas diligencias que practicar se devuelve este á juzgado de su orígen.

NUÑEZ.

[Oficina.]

En la misma fecha, presente en el Juzgado el C° Gregorio Padilla, preguntado por sus generales, previa la protesta de la ley, dijo: llamarse como queda dicho, casado, de treinta y cuatro años de edad, natural de Durango, vecino de este puerto y de ejercicio comerciante. Interrogado sobre los hechos que se tratan de esclarecer, dijo: que teniendo una casa de comercio en el minera del Triunfo en sociedad con Don Tirzo Hidalgo, en el mes de noviembre
69 del año próximo pasado, el dia cuatro ó cinco, entró Don Jesus Allvarez trayendo de abanzada á Don Ponciano Romero, que la primera casa á que entraron fué la del exponente pidiendo que se le entregaran las armas y no teniendo sino la que tenia en el cinto, se la quitó y la entregó, que con el pretesto de que no entregaba las armas que le pedian, lo llevaron preso, poniendole de pronto centinela de vista, que despues llevaron á los demas comerciantes, los reunieron con ellos y Don Jesus Alvarez les previno á cada uno la cantidad que debian entregar para poder salir en libertad asignándole la de quinientos al que contesta, el que pudo salir en el mismo dia dándoles doscientos setenta y cinco pesos, que despues vino en comision á este puerto con objeto de procurar que se pusiera en libertad uno de los presos que se tenian aquí en este puerto para que (Alvarez) pusiera tambien libre Clodomiro Cota al Presidente Municipal D. Manuel Navarro que hablo con el general Carbó y le contestó "que no admitia cange ninguno porque el no trataba con bandidos," que volviendo al Triunfo se encontró en el camino al expresado Clodomiro Cota quien al decirle el resultado de su comision lo hizo entrar entre filas reuni-
70 endolo con el expresado Manuel Navarro, Astolfo E. Mendoza, Margarito Falcon y un Señor Galindo y los trajeron á este puerto, haciéndolos entrar á pié á la poblacion y los metieron á la cárcel, de donde salió entregando doscientos pesos por los trescientos que le habian designado. Que en los tres meses en que esos señores permanecieron por estos rumbos fueron continuas las exacciones y los ultrajes, habiendo ascendido

á cerca de mil pesos lo que al que habla le costaron ; que antes deir á la casa del exponente fueron á la casa municipal y al cuartel haciendo fuego y matando á un policia, correspondiendo la guardia municipal en la propia forma, y abandonando en seguida sus puesto por no ser vastante para resistir á la fuerza que traia y quedando la poblacion á merced de los bandidos. Que es cuanto tiene que decir, ratificando esta su declaracion leida que le fué y firmando con el presente juez y los de asistencia. Doy fé.

Testado: Alvarez no vale.

YCAZA.
G. PAILA.

[Sello del Juzgado de 1ª instancia.]

A.:
E. PALAEZ.
A.:
F. R. COTA.

71 En una foja queda agregada la comunicacion que en este momento se recibe de la Jefatura Política. Conste.

LA PAZ, *octubre trece demil ochocientos ochena.*

En vista de la comunicacion de la Jefatura Política de esta fha., dése por terminada la presente informacion y remitase original, á reserva de abrir otra nueva si así lo indicare la espresada Jefatura. Lo decretó y firmó el Lic. Gabriel M. Ycaza, Juez de 1ª Instancia del Partº Sur del Territº de la Baja California con los de asistencia. Doy fé.

G. M. YCAZA.

A.:
E. PALAEZ.
A.:
GENARO SALDIENER.

En la misma fecha se remite en trece fojas útiles las presentes diligencias á la Gefatura Política. Conste.

LA PAZ, *octubre trece demil ochocientos ochenta.*

En vista de la comunicacion de la Jefatura Política de esta propia fecha, recibase la declaracion del Cº Celso Gil y vuélvansela á remitir estas
72 diligenias orinales. Así lo decreto el Licenciado Gabriel María Ycaza, Juez de primera Instancia del partido sur de la Baja California y firmó con los de asistencia. Doy fé.

YCAZA.

A.:
F. R. COTA.
A.:
E. PALAEZ.

[Sello del Juzgado de 1ª Instancia.]

En la propia fecha, trece de octubre, se presentó en este Juzgado el C. Celso Gil y preguntado por sus generales previa la protesta de la ley, dijo: llamarse como queda dicho, soltero, de veinticinco años de edad, natural de Sinaloa, vecino del mineral del Triunfo y de ejércicio, comerciante. Interrogado sobre los hechos que se tratan de esclarecer, dijo, que el cinco de

noviembre entró al mineral del Triunfo Ponciano Romero donde se le unió D. Jesus Alvarez con treinta hombres que tenia ocultos en la poblacion y unidos atacaron el cuartel, haciendo fuego sobre él, que los soldados que eran en número de doce se salieron por la puerta falsa, abandonando la poblacion, que inmediatamente despues redujeron á prision á todos los comerciantes del mineral, que el que contesta se separó de su casa
73 ántes de que fueran por él y se ocultó, pero descubrieron el lugar en que se habia escondido y de allí se lo llevaron preso á la cárcel, habiendo antes roto las puertas de su casa y entrando á ella se llevaron un relox y algunos otros efectos, que todo ello importaria sobre noventa pesos, mas una montura que tenia prestada al presidente municipal y que tomaron de la misma presidencia y la pistola que traia en la sintura el que contesta, que ademas para que saliera de la prision le exijian cien pesos, que á los tres dias logró salir entregando setenta y cinco pesos, que despues se retiraron del mineral esos señores y sabiendo que iban á volver se reunieron todos los vecinos resueltos á defenderse, que efectivamente se aproximó Zapata con sesenta hombres de acaballo, y habiendole impedido la entrada se estuvo dos dias sin haberlo logrado, que al tercer dia llegaron Marquez, Clodomiro Cota y Alvarez con otros jefes y cerca de doscientos cincuenta hombres, por lo que no siendo y á posible haceules resistencia, se tuvieron que rendir por lo que entraron y redujeron á prision á todos los que encontraron con los armas en la mano, los tuvieron ese dia en el mineral y al siguiente los trajeron á este puerto de la La Paz, que al que contesta le exijian ciento cincuenta para penerlo en libertad y que antes de
74 salir del Triunfo les entregó cuarenta y cinco pesos y estando ya en La Paz, para lograr que lo pusieran en libertad les dió una pistola con cincuenta tiros, que se volvió al Triunfo y en la misma noche en que llegó lo aprehendieron á las dos de la mañana, volviéndolo á reducir á prision exijiendole doscientos pesos, que le dieron permiso para que proporcionara una fianna por los doscientos pesos y el que contesta se fugó y no volvió mas ni al Triunfo ni á La Paz, que estas exacciones le costaron al exponente sobre quinientos pesos, que es cuanto tiene que decir ratificando esta declaracion leida que le fué y firmando con el presente juez y los de asistencia. Doy fé.

[SELLO.] CELSO GIL.
YCAZA.

A.:
F. R. COTA.
A.:
E. PELAEZ.

[Sello del Gobierno Político y Comandancia militar.]

Sirvase Ud. remitir desde luego á esta Jefatura Política, en el estado en que se hallen las diligencias que se le pidieron practicara por oficio ftha. 8 del corriente y sin perjuicio de continuar evacuando las que falten, pues urgentemente la necesita hoy este Gobierno.

Lib^{d} y Const^{n}.

La Paz, octubre 13 de 1880.

A. E. MENDOZA.
ANTONIO CANALIZO,
Secre^{o}.

75 Al Juez de 1^{a} Inst^{a} del Part^{o}, presente.

[Sello.]

[Sello del Gobierno Político y Comandancia militar.]

Habiendose presentado en esta Jefatura Política el C° Celso Gil que es una de las personas que conforme á lo dispuesto en comunicacion fiha. 8 del corriente debe declarar sobre los hechos á que la misma se refiere, he de merecer á Ud. se sirva interrogarle y añadir su declaracion al espediente de las diligencias practicados sobre este asunto para cuyo efecto devuelvo á Ud. dicho expediente.

Lib^{d} y Const^{n}.

La Paz, octubre 13 de 1880.

A. E. MENDOZA.

Por ocup^{n} del Srio.

M. SANTA MARIA,
Of^{l} 1°.

En cumplimiento de lo mandado en auto de esta fecha, trece de octubre, se remiten estas diligencias originales á la Jefatura Política. Conste.

77 *Translation of proceedings touching investigation instituted by authorities of Lower California, and stipulation in relation thereto.*

1880.

Investigation instituted by the political government and military command of the territory for the elucidation of the acts which are mentioned in its communication.

[Seal of the court of first instanee.]

[Seal of the territory, political government.]

The political government and military command under my charge, being required to certify in a legal and authentic manner to the acts of kidnapping and violence against the persons and property of various residents of this district committed by Don Manuel Marquez de Leon, or by his order, during the last two months of the past year, and in which he may have figured as auxiliary, principal, or accomplice, you will be pleased to put into execution the due judicial inquiries, examining immediately
78 upon said points the citizens Miguel Palacio, Astolfo Mendoza, Cirilo Mendoza, Francisco T. Cabezud, Ygnacio Escalante, and Maximiano Baldovino, as well as those whom they may cite as having been victims of acts of like nature, and others that this government may designate, remitting with all possible expedition the copy or certificate of the proceedings you have had.

Liberty and the constitution.

La Paz, September 24th, 1880.

RICARDO CARRICARTE.
ANTONIO CANALIZO,
Secretary.

To the judge of first instance of the district, present.

79 [Seal of the court of first instance, &c.]

LA PAZ, *September 5th*, 1880.

In consequence of the communication of the political chief and military commandant of this territory, let the investigation which he asks be made and the persons be cited, whose names he mentains, in order that they may be examined, and such proceedings be had as may conduce to the elucidation of the acts which it is intended to authenticate.

Attest: So decreed and subscribed by citizen Licentiate Gabriel Maria Ycaza, judge of first instance of the southern district of Lower California, with the assisting witnesses.

G. M. YCAZA.

A. E. PELAEZ,
F. R. COTA,
Assisting Witnesses.

At the same date an official notice was forwarded to Don Ygnacio Escalante at El Triunfo, citing him to appear on Wednesday, the twenty-ninth inst., at eleven o'clock a. m.

In testimony whereof, &c.

On the 28th of same month Messrs. Miguel Palacio, Maximiano Valdovinos, Astolfo E. Mendoza, Cirilo N. Mendoza, and Francisco
80 J. Cabezud were served with citations.

In testimony whereof, &c.

[Seal of the court of first instance.]

At the same date citizen Miguel Palacio appeared before this tribunal and in answer to the preliminary interrogations said: That his name was as aforesaid; that he was thirty years of age, a bachelor, a merchant, a native of San José, and a resident of this port.

Being interrogated touching the acts to be elucidated he answered: That on the 25th day of November of last year Don Clodomiro Cota summoned him, together with Messrs. Francisco J. Cabezud, Julian H. Cota, Maximiano Valdovinos, Lautaro Ramirez, and Antonio Ruffo to the government-house of this port, when he gave them to understand the sum which he exacted from each of them, admonishing them that they should be held as prisoners, deprived of bed, water, and food until the same was paid; that the amount levied upon the deponent as his share was three hundred dollars; that during the first days same persons could convey secretly to them crackers and a bottle of water or so, but afterwards they put deponent into the calaboose, together with said Don Astolfo Mendoza, where they were for one day and a half without water or food of
81 any kind, in consequence of which deponent saw himself compelled to deliver up the sum of one hundred dollars in order to get out of prison, where he had remained for five days; that they had brought Don Astolfo Mendoza from Triunfo, and although they arrested in this city also Don Cirilo Mendoza, they set him free upon the ground that he was a clerk of the same house of which Don Astolfo Mendoza was a partner and manager; that subsequently they gave notice that each one of the commercial houses should pay over daily the per diem which they desig-

nated, drawing from the house of H. C. Von Borstel the sum of five dollars daily, which was delivered over, for fear of what they might do; that afterwards they exacted various sums, reaching one hundred dollars, the amount paid by the house represented by the deponent, which was paid over for the same reason, that the previous exactions ascended to five hundred or six hundred dollars, more or less, in cash and goods taken from the store without payment therefor; that all this was done by Clodomiro Cota, the second of Marquez, and by order of the latter; that many other exactions and arbitrary acts are spoken of, committed by Don Manuel Marquez de Leon, who used for this purpose the said Clodomiro Cota,
acts of which deponent has no certain and precise data, and there-
82 fore does not specify them.

And further deponent saith not except adding that he was the representative of H. A. Von Borstel. This deposition having been read deponent ratified and subscribed the same before me and the assisting witnesses.

M. PALACIO.
YCAZA.

E. PELAEZ,
F. R. COTA,
Assisting Witnesses.

[Seal of the court of first instance.]

On the same date Maximiano Valdovinos, being present before the court, stated in answer to preliminary interrogations, that his name was as above stated; that he was a single man; aged 28 years; born in Guadalajara, and a resident of this port; and his calling that of a merchant. Being questioned upon the subject-matter of this inquiry he deposed: That on the 23rd of November of last year the forces of Don Manuel Marquez de Leon entered here and on the 24th various commercial firms of this port were cited to appear, in fact almost all of them, and among them that of Pablo Hidalgo and Co., to the summons of which latter house deponent responded; that Don
Clodomiro Cota received them, he having been left by Marquez in the
83 capacity of political chief; that the said Cota told them that he required five thousand dollars for the expenses of the military force which they had, and that we, the persons cited, must pay over the same, ourselves adjusting the respective pro rata so that the amount in the aggregate should form that sum; that all refused and were summoned to appear the next day, at 9 o'clock a. m., the 25th of the said month of November; that on that day the quotas not having been fixed, the same were established by the said Cota and the secretary, Fernando Erquiaga, two thousand dollars being the sum assigned to be paid by the house represented by deponent; that all refusing to pay over the amounts which had been designated for them, they were passed over as prisoners to the jail, deprived of bed, water and food; that the wife of Don Pablo Hidalgo having succeeded with Manuel Marquez that food might be brought to the deponent, when this arrived, it was forbidden by Don Clodomiro; that in consequence of this the same lady availed herself of other persons to effect a settlement of the business, which was done by paying two hundred dollars in money and the balance in goods, making in the aggregate eight hundred

84 dollars; that scarcely was one loan paid when another was exacted, the representatives of the commercial houses being again subject to imprisonment, until the sums desired of them were paid over, and being threatened even with being taken afoot to the "Cajon de los Reyes," and committing the outrage of entering to the remotest corner of the houses, and ordering Doña Maria de Vives to be bourne away a prisoner, should her son Gaston not be found in the house, sending promissory notes to the houses for the goods or money as it occurred to them; that from the house of Pablo Hidalgo they drew out or took in money and effects about four thousand dollars, imprisoning also another clerk of said house on one occasion, when they could not find the deponent. The deposition of deponent having been read he said that he recollected that the first quota assigned as payable from the house which he represented was one thousand dollars and not two thousand dollars as he had said. Deponent thereafter ratified and subscribed his deposition before me and the assisting witnesses.

In testimony whereof, &c.

MAXIMIANO VALDOVINOS.
YCAZA.

Assisting witnesses:
E. PELAEZ.
F. R. COTA.

85 [Seal of the court of first instance.]

On the same date Don Francisco J. Cabezud appeared before this tribunal, and on his preliminary examination stated that his name was as above stated; that he was a bachelor, of 29 year' of age; a native of Autlán, and a resident of this territory, and a merchant. Touching the subject-matter under inquiry, he said that on the 24th day of November of last year all the representatives or owners of commercial houses of this port were summoned to appear at the government house, by order of Don Manuel Marquez de Leon; that Don Clodomiro Cota received them there, deponent presenting himself for the house of Don Gregorio Rivera, which then as now he represented; that at the meeting Señor Cota manifested to them that the object had in view in calling them was that hey should give him six thousand dollars; that Señor Marquez required this money for the support or sustenance of his forces; the difficulty which existed for them to raise in those moments the amount which he had fixed having been manifested to him by the merchants, he reduced the amount to five thousand dollars, and told them that they should among themselves adjust the quota for each one to pay, providing that in
86 the aggregate the sum reached should be five thousand dollars, which they had to pay; that the merchants refusing to make the pro rata, he summoned them for the following day, the 25th, at 9 o'clock a. m., admonishing them to fix their quotas and bring the same with them; that they appeared accordingly the following day without having done so, and thereupon the said Clodomiro Cota adjusted the same himself, and showed the same to them; that not one of them being willing to pay over the sum which had been allotted him to pay, he ordered them taken to

jail among the soldiers, deprived of bed, water and food, and even the privilege of leaving the precincts of the prison door, which they designated them; that deponent seeing that General Marquez was standing in the door of the jail, he asked to be permitted to speak to him, which he succeeded in doing, but to no purpose, since the replied to every argument adduced by deponent, "that if he, deponent, did not pay over the amount fixed upon as the quota of Don Gregorio Rivera, he would close out the house at auction, as any way he would have the money." That the following day Clodomiro Cota ordered deponent into his presence after 36 hours of confinement, and after a very lengthy conference deponent
87 found himself obliged to pay over to him three hundred dollars in money, and the balance, up to eight hundred dollars, in merchandise. That subsequently a per diem payment was imposed upon all the commercial houses for the sustenance of the forces—the house represented by deponent having to pay daily twenty dollars; that notwithstanding the payment of this daily stipend goods were frequently taken out of the store whenever it suited them, the amount of the exactions from Don Gregorio Rivera, both in this port and Triunfo, reaching the sum of seven thousand or eight thousand dollars.

Deposition read, ratified, and subscribed by deponent before me and the assisting witnesses.

In testimony whereof, &c.

F. J. CABEZUD.
YCAZA.

E. PELAEZ,
F. R. COAT,
Assisting Witnesses.

[Seal of the court of first instance.]

On the 29th of the same month citizen Astolfo E. Mendoza presented himself before this court and, in answer to preliminaries, stated that his name was as aforesaid; that he was 27 years old; a bachelor; a native of San Antonio, and a resident of this port, and his business, a mer-
88 chant. Touching the subject of these judicial inquiries he deposed that on the 5th of November of last year, the revolution broke out in Triunfo, under the chieftancy of Jesus Alvarez, at which date deponent was in said town; that immediately a contribution was levied of six thousand dollars, distributed among all the commercial houses, assigning to the house represented by deponent, which was opposite that of Aristeo Mendoza, the sum of four hundred dollars, which were paid over, the representatives of the other houses who had not made delivery having been reduced to prison and kept there until compliance had been made; that at this moment he remembers that the amount of that contribution was not six thousand dollars, but about two thousand dollars; that some days thereafter the forces left Triunfo, taking the direction of this port of La Paz; that from the 18th to the 20th of said month of November Don Claudio Zapata, with about fifty cavalry, appeared in the vicinity of Triunfo, and the residents of the town resolved to defend themselves, placing at their head the municipal president, Don Manuel Navarro. Not having been able to enter the town said force remained until the 21st or 22nd, when Don Manuel Marquez de Leon, with the balance

of his forces, arrived, making impossible the further defence of the
89 town; that thereupon a surrender took place; all those who had taken up arms were held as prisoners, among whom was the deponent; that Marquez told them that he ought to impose upon all those who had taken part in the defense the penalty of confiscation of all their goods; but, wishing to mitigate the penalty, he would impose upon them only that of delivering up the sum of six thousand dollars, fifty rifles, and fifty pistols, which sum of money and arms they might among themselves proportionate, fixing the numeral quantity of money and the arms which each one had to deliver over, and moreover making the solemn promise of not taking up arms again against the said Marquez; that afterwards, Marquez departed for La Paz, and the prisoners not having made the proportionate adjustment of the levy among themselves, Don Clodomiro Cota did it for them, allotting to deponent, as his share of the contribution, the sum of eight hundred dollars, which, having refused to pay, he was brought from Triunfo to this port of La Paz on foot, which is a distance of eighteen leagues, and with him even likewise brought Margarito Falcon, Espiridion Galindo, Celso Gil, and Ygnacio Escalante; that
90 this last-mentioned person not being able to proceed on account of being sick, when distant about one mile from Triunfo, offered to pay over the sum which had been demanded of him, in consequence of which he was allowed to return with some of Cota's people to deliver the same, and set free at his house; that on arriving at La Paz they placed in the police guard the deponent, together with Espiridion Galindo, Celso Gil, Margarito Falcon, and the president of the common council, Don Manuel Navarro; that on the following day to the former were added as prisoners Julian H. Cota, Antonio Ruffa, Lautaro Ramirez, Francisco J. Cabezud, Maximiano Valdovinos, and Miguel Palacio, all deprived of beds, water and food; that in consequence thereof they were all more or less obliged immediately to make some settlement, so that an end might be placed to the situation in which they were, deponent having been obliged to deliver over two hundred and fifty dollars, after having passed four days in a calaboose of the jail without eating or drinking water; that afterwards they levied upon him a daily contribution of ten dollars as the quota for the store belonging to him in this port, which was not sufficient to exempt him from new exactions of money and goods, making a
91 sum total of money and effects taken from deponent of from four to five thousand dollars during the revolution, which is all deponent has to say, reading, ratifying, and subscribing his aforesaid deposition before me and the assisting witnesses.

In testimony whereof, &c.

A. E. MENDOZA.
YCAZA.

E. PELAEZ,
F. R. COTA,
Assisting Witnesses.

On the same date the reply of Don Ygnacio Escalante to the citation served upon him by the court was received and annexed to this expediente.

In testimony whereof, &c.

[Seal.]

To-day I have received a citation from the court of first instance under your direction, ordering me to appear to-morrow at eleven o'clock a. m., the 29th of the month now ending, for the prosecution of a judical inquiry; but as my health does not permit me for the moment to undertake a journey which indubitably would result in grave sickness, and not having here a physician to supply me with the necessary certificate for the satisfaction of the court, I beseech you to have the kindness if it is not possible
92 to transmit or delegate your authority to the judge of this place, to defer at least until later my appearance, according to the nature of the matter under investigation.

Triunfo, September 28th, 1880.

Y. ESCALANTE.

To the judge of first instance of the southern district of the territory, La Paz.

[Seal of the court of first instance.]

On the 30th instant Don Julian H. Cota, being present in this court, answered, in response to preliminary interrogations, that his name was as aforesaid; was married; aged 43; and a merchant. Being asked in continuation, in reference to the acts which are being inquired into, and in consequence of the reference which to him is made in the previous depositions, he replied that on the 24th of November of last year the owners or representatives of the commercial houses of this port were cited, by order of Don Manuel Marquez de Leon, to appear at the government house; that they were there received by Don Clodomiro Cota, who set forth to them that Señor Marquez required a sum of money, which the parties cited must pay over, proportionating among themselves
93 the respective amount that each should pay; that at this time deponent does not recollect the sum total. That all who had assembled there refused to make payment of what was asked of them and refused also to make the proportionate division among themselves which Don Clodomiro Cota desired; that a short time after they were told to withdraw and to return on the 25th of said month of November at 9 o'clock in the morning, at which hour they would be expected to return and present the pro rata statement indicated; that they appeared on the 25th day, without having complied with the order, when Don Clodomiro Cota did the same himself, assigning to the house of Cota and Pelaez, which deponent represented, the sum of eighteen hundred or twenty-eight hundred dollars; that no one was conformable with said distribution and refused to make the payments, in consequence of which they were all reduced to confinement and deprived of beds, water and food; that by virtue of this each one of them proceeded to arrange in the manner which he best could to terminate the situation in which they were, deponent having been obliged to pay over for Messrs. Cota and Pelaez the sum of six hundred dollars; that subsequently a sum was fixed which they were daily obliged to pay, the sum determined on for the house he represented
94 being twenty dollars, without all this being sufficient to avoid new exactions of money and goods; the total exacted in cash and effects

from the house which had the partnership in this port and Triunfo, without taking into account the cattle which were eaten on the rancho of "Olas Altas," and the mules and horses which were taken, was at least three thousand dollars. And further deponent saith not, reading, ratifying, and subscribing his deposition before me and the assistiug witnesses.

In testimony whereof, &c.

JULIAN N. COTA.
YCAZA.

E. PELAEZ,
F. R. COTA,
Assisting Witnesses.

[Seal of the court of first instance.]

On the same day citizen Lautaro Ramirez, being present in this court, replied to the preliminary questions that his name was as above stated; that he was fifty years of age; a married man, and a native of Sonora, and followed the business of a merchant. Being questioned upon the acts which are now being elucidated, by reason of the reference made to him in the preceding depositions, he answered: That on the 24th of November last, by order of Don Clodomiro Cota, who was discharging
95 the functions of political chief, all the proprietors and representatives of the commercial houses of this port were called upon to assemble at the government house, where was exhibited to them the order of General Marquez de Leon, obliging the said Cota to convoke those who were then and there assembled, since the general in chief, requiring six thousand dollars, had ordered the call upon the houses, that they themselves might adjust the respective proportions payable from each, making up in the total the said sum of six thousand dollars; that, having refused to verify the said payment, as the same was impossible, they were all cited to appear on the following day, November 25th, at 9 o'clock a. m., and admonished to present at this hour the pro rata statement above mentioned; that the parties cited all appeared at the aforesaid hour, and the statement being demanded of them they declared that they had not made the same on account of being unwilling to do so, nor did they wish to pay over the amount demanded of them; that Don Clodomiro Cota, being satisfied that they did not wish to give it, arose incensed and said that he himself would fix the quotas, entering directly thereafter Don Fidencio Pineda
96 with a list of the individuals present, and fixing to each one the amount deemed proper, assigning to deponent as his quota the sum of four hundred dollars; that being advised of this deponent stated that he would pay over nothing, and gave convincing reasons for so doing, citizen Don Julian Cota sustaining his statement, speaking likewise of the amount imposed upon himself; that this was sufficient to make Clodomiro Cota believe that they would not pay over any sum allotted to them to be paid, for which reason an armed force was summoned by him, and escorted by it we were all conducted to jail; that the deponent was held a prisoner for three days, deprived, with the rest, of bed, water, and food, and denied the privilege of leaving to answer the calls of nature; that afterwards he obtained his liberty by paying over one hundred dollars; that subsequently a new loan was levied, which deponent succeeded in settling for himself

by paying twenty-five dollars, and then a certain sum per day was exacted, deponent having to pay five dollars the first day and two dollars thereafter, being obliged to undergo vexations by searches made of his house and person for arms, and that they took from deponent a house of value, the whole amount of exactions made of deponent reaching about five hundred dollars.

97 And further deponent saith not, hearing read, ratifying, and subscribing his deposition before me and the assisting witnesses. In testimony whereof, &c.

L. RAMIREZ.
YCAZA.

E. PELAEZ,
F. R. COTA,
Assisting Witnesses.

[Seal of the court of first instance.]

At the same date citizen Antonio Ruffo appeared before this tribunal, and on the preliminary examination answered that he was named as above, was 39 years of age, a single man, and a native and resident of this port, and his calling that of a merchant.

Being interrogated upon the acts which constitute the subject of this judicial inquiry, he stated: That on the 24th day of November of last year, by order of Don Manuel Marquez de Leon, the heads and representatives of the commercial houses of this port were cited to appear at the government house, where they were received by Don Clodomiro Cota, who made known a communication of the said Marquez, in which it was stated that he required a sum of money; that deponent does not remember

98 if the sum was thirteen thousand dollars which the houses of this port were required to pay over and which was to be made up by proportionate amounts or quotas fixed among themselves, a certain amount being assigned to each one; that the persons cited declared that it was impossible for them to pay any amount, and for this reason could not fix the respective quotas that they were cautioned to do. That of this he, Cota, notified Don Manuel Marquez, and immediately he gave them to understand the sum which each one was required to pay over, informing them likewise that this had to be done no matter how, and if the money was not forthcoming he would imprison them, without food or water until the same was paid, as he accordingly did the moment that each one manifested that he could not comply. That the sum of three thousand dollars was allotted to the house of Gonzalez and Ruffo. That in this condition of affairs they all saw the necessity of effecting some adjustment by which an end could be put to the situation in which they found themselves. That the house of the deponent was under the necessity of delivering up the sum of eight hundred dollars, one-half in money and the other half in merchandise. That subsequently other loans were

99 required and parties reduced to prison who failed to comply within a fixed term; that thereafter a per diem exaction was fixed, the sum of twenty-five dollars being the amount rated upon the house of deponent, without prejudice to their going when they might deem it convenient to the house and removing money and goods; the sum total exacted from the house of Gonzalez and Ruffo in this port and

Triunfo reaching to upwards of three thousand and five hundred dollars.

And further deponent saith not, and read, ratified, and subscribed this his deposition before me and the assisting witness.

In testimony whereof, &c.

A. RUFFO.
YCAZA.

E. PALAEZ,
F. R. COTA,
Assisting Witnesses.

[Seal of the court of first instance.]

On the first of October the present judge repaired with the assisting witnesses to the residence of Señora Maria de Vives to take her deposition, in consequence of her being referred to in the former proceedings, and after responding to the preliminary questions to the effect that she was called as above; was a native of France; a resident of this port; aged, 50
100 years; a widow, and proprietress of the hotel Progresos, she stated, touching the matters being inquired into, that at the close of December of last year, two agents of Don Clodomiro Cota, the lieutenant of Manuel Marquez de Leon, presented themselves at her house with an order that her son Gaston Vives should pay over immediately two hundred dollars; that her son did withdraw from the house without attracting the attention of those agents, and they not finding him therein, after having made a thorough search, they endeavored to make the deponent accompany them to the guard-house, and she having refused they departed to notify Don Clodomiro, who gave an order for her to be brought there; that in the mean time the deponent closed all the doors of her house; that afterwards they came to rap at the door, which she did not open to them; that a friend of the house having learned that an order had issued to break in the doors, she paid over to the said Clodomiro Cota the two hundred dollars he required of her, which was reimbursed the party who had paid it. And further deponent deposeth not, having ratified and subscribed said deposition after the same was read, before me and the assisting witnesses.

101 In testimony whereof—

M. VIVES.
YCAZA.

E. PELAEZ,
F. R. COTA,
Assisting Witnesses.

LA PAZ, *October 2nd*, 1880.

Let an official dispatch be forwarded to the secretary of the political and military government of this territory notifying him that all the persons mentioned in the communication of that government of the 24th ultimo, and those who by them were cited have been examined, impressing it upon him to answer this dispatch, and in his reply to state if this judicial investigation shall be closed, or if there remain others to give testimony, in that event indicating their names.

Citizen Gabriel Maria Ycaza, judge of first instance of Lower California, so ordered and signed with the assisting witnesses.

In testimony whereof, &c.

G. M. YCAZA.

FELIPE R. COTA,
E. PELAEZ,
Assisting Witnesses.

102 A minute of the communication dispatched in compliance of the preceding order is annexed.

In testimony whereof, &c.

The reply of the political government of the territory to the anterior communication was received and annexed.

In testimony whereof, &c.

LA PAZ, *October 2nd*, 1880.

The preceding judicial investigation is hereby terminated. Let the original be transmitted to the political government of this territory.

Citizen Licentiate Gabriel Maria Ycaza, judge of first instance of the southern district of Lower California, so ordered and signed with the assisting witnesses.

In testimony whereof, &c.

G. M. YCAZA.

E. PELAEZ,
F. R. COTA,
Assisting Witnesses.

[Seal of the court of first instance.]

The persons whom the political government and military command was pleased to indicate to me in its communication of the 24th
103 ultimo, as well as those indicated by them for the acts of the class it is sought to elucidate, having all been examined, I hope you will be pleased to answer this communication in order that you may advise me whether the investigation be closed or whether there remain others whose evidence may be required, and, if such, indicate their names.

Reiterating my sentiments of consideration and esteem.

Liberty and constitution.

La Paz, October 2nd, 1880.

To the secretary of the political government and military command of this territory, present.

[Seal of the territory, political government, &c.]

This government, being advised of your dispatch of this date, in which you manifest that the proceedings which, in the communication of the 24th of September last, it was requested of you to institute have been closed, I ought to say to you that you will be pleased to transmit to this depart-

ment the originals, and on examination of them it will be deter-
104 mined whether the inquiry will be further extended.
Liberty and constitution.
La Paz, October 2nd, 1880.

N. E. MENDOZA.
ANTONIO CANALIZO,
Secretary.

To the judge of the first instance of this department, present.

On the same date let these original proceedings be transmitted to the political government and military command of the territory.
In testimony whereof, &c.,

[Seal of the court of the first instance.]

1880.

Judicial investigation instituted by the governor of the Territory in relation to the acts mentioned in his communication of the second instant.

[Seal of the court of first instance.]

[Seal of the territory, political government, &c.]

This government, finding it necessary to establish in a legal and authentic manner the acts of kidnapping, damage to property, and violence committed against various residents of this department by the so-
105 called Jesus Alvarez and Clodomiro Cota during the latter months of the past year, you will be pleased to make the due inquiries, examining immediately as to the deeds of the character above referred to of which they have been the victims, deeds executed by one or the other of the aforesaid persons, Cota and Alvarez, the following citizens: Aniceto Bañuelos, Margarito Falcon, Ramon Balareso, and other persons who may be indicated to you, who will declare with precision and clearness as to the deeds, the perpetrators of the same, and whether the former were acting on their own authority, or by order of another; and, if so, by whose order.
These inquiries having been made, you will be pleased to transmit the originals to this office for the necessary purposes.
Liberty and constitution.
La Paz, October 2nd, 1880.

A. E. MENDOZA.
ANTONIO CANALIZO,
Secretary.

To the judge of first instance, present.

106 Received on the 4th instant at about 4 o'clock p. m.
Attest.

[Seal of the court of first instance.]

LA PAZ, *October 4th*, 1880.

Let the same be granted, and for that purpose Don Aniceto Bañuelos be

cited to appear and testify, and let the same citation be made, through the constitutional judge of the Triunfo, for the appearance of Margarito Falcon and Ramon Balareso, on Wednesday, the sixth instant, at eleven o'clock a. m., before this court, without excuse or pretext whatever, in order that a judicial proceeding the most urgent be had.

I thus decreed and signed with the attesting witnesses.

I attest.

G. M. DE YCAZA.

E. PELAEZ,
F. R. COTA,
Attesting Witnesses.

On the 4th instant official notice was issued to the constitutional judge of El Triunfo and to Don Ramon Balareso and Margarito Falcon, citing the two latter to appear.

Attest.

107 [Seal of court of first instance.]

On the sixth of the same month the citizen Margarito Falcon, being present in court, was interrogated, and testified as follows:

That he is named as above; is unmarried; 26 years of age; a native of the state of Jalisco; resident of the mining town of El Triunfo, and a merchant. Being interrogated upon the acts which are sought to be elucidated, he answered: That on the 5th of November of last year Don Jesus Alvarez uprose in the said town of El Triunfo with about eighty men, and immediately committed to prison all the proprietors or agents of the commercial houses of that mining town, imposing on them immediately the obligation to deliver the sum of money which he designated to each one, threatening them with a continuation of the imprisonment without permission to eat until they had delivered respectively the said amounts, which, in consequence thereof, they were compelled to do in order to be relieved from that situation. The sum of three hundred dollars was the contribution levied upon this deponent, five hundred dollars having been at first required. The entire sum taken by Jesus Alvarez from the merchants of the town, reached about twenty-five hundred dollars;
108 that three days afterwards Don Clodomiro Cota entered the town, and Jesus Alvarez, who had then left it, returned, and two days after remaining there committed to prison all the merchants, levying again upon them a new contribution, the deponent being obliged to deliver fifty dollars; the entire amount drawn from the merchants of El Triunfo this second time being five hundred dollars; that in the three months of November, December, and January the exactions of money and goods were continuous by the said Jesus Alvarez and Clodomiro Cota, taking place nearly every day.

Besides this, one Claudio Zapata, during these same months, levied a daily tribute upon every house, assigning to the deponent a per diem of five dollars; and again Manuel Marquez de Leon exacted a sum from each one of the merchants, assigning to the deponent as his share eight hundred dollars, but it being impossible to deliver so large a sum he only gave him two hundred and twenty dollars; and in order to obligate him for the balance they carried him on foot from the town to a place called Los Pocitos,

giving him there a horse to ride, it being impossible for him to proceed any further afoot, it being twelve leagues from El Triunfo to Los
109 Pocitos. From thence they took him on horseback to the port of La Paz, where he continued five days longer in prison, finally obtaining his liberty by delivering up a pistol additional to the two hundred and twenty dollars which he had paid in El Triunfo on account of the eight hundred dollars levy, making the exactions which the deponent had to pay ascend to nearly nine hundred dollars. Further deponent saith and knoweth not; he having ratified and signed this deposition after the same had been read to him before me and the assisting witnesses.

M. FALCON.

Attest:

YCAZA.

E. PELAEZ,
F. R. COTA,
Assisting Witnesses.

On the 7th of October, the citations served upon the citizens Margarito Falcon and Ramon Balareso were received, and are annexed hereto, duly returned.

Attest:

[Seal of the court of first instance.]

The appearance of Margarito Falcon being necessary before this tribunal in order to make a certain most urgent judicial investigation,
110 you are hereby notified to appear before this tribunal on Wednesday, the 6th instant, at eleven o'clock a. m., without excuse or pretext whatever.

Liberty and the constitution.

La Paz, October 4th, 1880.

J. M. YCAZA.

To the constitutional judge of El Triunfo.

Received on the 5th instant at half past 12 o'clock p. m.

Attest:

[Seal of the constitutional court of El Triunfo, Lower California.]

On the same date. Let the order of the superior court be carried out. So decreed and signed by the present judge, with the assisting witnesses. In testimony whereof, &c.

NUÑEZ.

JESUS CESEÑA CASTRO,
M. ALAMILLO,
Assisting Witnesses.

In continuation, citizen Margarito Falcon, being present, and advised of the order of the court of first instance, declared that he heard and subscribed the same.

In testimony whereof, &c.

NUÑEZ.

(On the margin:) M. FALCON.

111 JESUS CESEÑA CASTRO,
M. ALAMILLO,
Assisting Witnesses.

At the same date. This proceeding having been effectuated, let the same be remitted to the tribunal where it originated. In testimony whereof note is made.

NUÑEZ.

[Seal of the court of first instance.]

The personal attendance of Ramon Balareso before this tribunal being necessary, in order to carry out a most urgent judicial proceeding, you will notify him that, without excuse or pretext, he appear before said tribunal on Wednesday, the 6th inst., at 11 o'clock a. m.

Liberty and the constitution.

La Paz, October 4th, 1880.

J. M. YCAZA.

To the constitutional judge of El Triunfo.

Received on the 5th inst., at 12½ o'clock p. m.

In testimony whereof.

112 On the same date. Let the order of the superior court be complied with. Citizen Santiago G. Nuñez, constitutional judge, so decreed and signed, with the assistant witnesses.

NUÑEZ.

JESUS CESEÑA CASTRO,
M. ALAMILLO,
Assisting Witnesses.

On same date. Citizen Ramon Balareso, being notified by the order of the court of first instance, declared that he could not appear on account of sickness, and because of having pending a business matter which he could not abandon. So set forth and subscribed. In testimony whereof, &c.

NUÑEZ.

J. CESEÑA CASTRO,
M. ALAMILLO,
Assisting Witnesses.

(On the margin:) R. BALARESO.

On same date. This proceeding having been effectuated, was remitted to the tribunal whence the same originated. Noted in evidence thereof.

NUÑEZ.

[Seal of the territory, political government.]

It resulting from reports made to this government that citizens Gregorio Padilla and José Ygnacio Arce, residents of this port, and
113 Celso Gil and Ysidro Montion, residents of Triunfo, can testify in reference to the acts to which mention is made in the correspondence of this Chief Executive Department, dated September 24th and October 4th, you will be pleased to cite said persons, and interrogate them after the same manner as in the case of Aniceto Bañuelos and others mentioned in the last of said correspondence, endeavoring to have these proceedings conducted with all possible brevity.

Liberty and the constitution.
La Paz, October 8th, 1880.

A. E. MENDOZA.
ANTONIO CANALIZO.

To the judge of first instance of the district, present.

Received on the 8th of said month of October, and the communication of this date, from the governor of the territory, annexed thereto.
In testimony, &c.

[Seal of the court of first instance.]

On the said date of the 8th of October citizen Aniceto Bañuelos being present before the court, and having been interrogated preliminarily, as provided by law, replied and said that his name was as aforesaid; that he was a single man; 36 years of age; a native of Zacatecas, and a
114 resident of this port. Being questioned touching the acts which were being investigated, he said that on the 5th of November of last year Jesus Alvarez uprose in the mining town of Triunfo; that said Alvarez demanded of the deponent that he should deliver up to him the sum of three hundred dollars, and committed him to prison until he should produce that sum; that he, the deponent, was taken out of prison by one Ponciano Romero, one of the band of Alvarez; that afterwards they thrust him again into prison, and the same Ponciano Romero the second time released him; that deponent then immediately fled from the town, travelling by cross-roads in order to escape arrest anew; that notwithstanding he was arrested during the three months of November, December, and January, various times, and as often set at liberty, bonds being required of him for the delivery of different sums of money in the terms therein designated, and obliging him to sign documents with only his own signature; that the uprising had been his ruin, since on account of the acts of these persons he estimates that he sustained a loss of nearly a thousand dollars in money and goods, horses and arms, which his clerk was obliged to deliver
115 over to these persons, or which they themselves appropriated, and also the losses he had to sustain in not being able to attend to his business; that he was reduced to the extremity of giving up to these persons all his effects when they retired on the approach of the force sent by the government; that withal his entire capital of upwards of three thousand dollars was completely used up. That this is the sum and substance of what he has to testify. This declaration having been read to him he ratified and signed the same before me and the assisting witnesses.
In testimony whereof, &c.

ANICETO BAÑUELOS.
YCAZA.

E. PELAEZ,
F. R. COTA,
Assisting Witnesses.

[Seal of the court of first instance.]

On the 11th of October Ramon Balareso personally appeared, and, in answer to preliminary questions, said that his name was as aforesaid; that

he was a single man, 24*th* years of age, and a native of this port of La Paz; that he was a resident of the mining town of Triunfo, a merchant managing the branch house which belongs to Messrs. Gonzalez and Ruffo
116 there. Being interrogated upon the subject-matter of this investigation, he answered as follows: That on the 5th of November of last year Jesus Alvarez, with about one hundred men, rose up in the mining town of Triunfo, and immediately exacted various sums from the merchants of that town, who, refusing to pay or deliver up, were cast into prison, with the threat that they should not be permitted their freedom until they had delivered up the amounts demanded of them; that a demand was made upon deponent on account of Messrs. Gonzalez and Ruffo, whom he represented, for the sum of two hundred dollars, one hundred and eighty dollars of which he was compelled to pay over to acquire his liberty; that subsequently Clodomiro Cota arrived at the town, and levied new exactions, reducing the merchants again to imprisonment; that still later, Manuel Marquez de Leon was there, and new exactions of money were made of the merchants, who were all imprisoned and deprived of food, and threatened to be taken on foot to this port of La Paz; that on the three months of November, December, and January these exactions and outrages were continuous, and had reached in amount upwards
117 of thirteen hundred dollars, this being the sum which he, the deponent, had to pay over for the gentlemen whom he represented.

And further deponent saith not, ratifying and subscribing this his deposition, after the same had been read.

In testimony whereof, &c.

R. BALARESO.
YCAZA.

F. R. COTA,
E. PELAEZ,
Assisting Witnesses.

On the 11th the annexed official order was transmitted to the constitutional judge of Triunfo to cite citizens Celso Gil and Ysidro Montion.

In testimony, &c.

[Seal of the court of first instance.]

On the 13th inst. citizen Ygnacio Arce personally appeared in court, and, after the preliminary examination, testified as follows:

That his name was as aforesaid; that he was married, and a native of Guadalajara, and aged 35 years; a resident of this port; and that his calling was that of a merchant. In reference to the events being inquired into, he stated that on the 5th day of last November Ponciano
118 Romero entered the mining town of Triunfo, at about ten o'clock a. m., with some twelve or fourteen men, and immediately thereupon Jesus Alvarez, with all the crowd that he had already organized in said town, joined him (Romero), so that at about one o'clock p. m. the force numbered from one hundred to one hundred and fifty men; that, having exhausted every effort to obtain all the arms there were there and to arm themselves, they captured and imprisoned all the merchants in the place, and demanded that each of them should deliver and

pay over the respective sums assigned to them in the levy; that he, the deponent, was in the house of Don Aniceto Bañuelos, at first as a clerk, and afterwards, in addition to his salary, a sharer in a portion of the profits; that Señor Bañuelos, who had been committed to prison, succeeded in obtaining his liberty through Ponciano Romero without having paid over the sum exacted of him, immediately left the town; that he, the deponent, was then the only person left in the house, and that on the day after they came to him and exacted the three hundred dollars that had been imposed upon Señor Bañuelos; that not having delivered said amount they carried him away to prison, where
119 they detained him without food or drink, or even the privilege of smoking; that having offered to pay over the sum of fifty dollars, Clodomiro Cota came to the prison to see him, and deponent told him that it was absolutely impossible for him to pay the sum demanded of him, and that if he wished he might take the merchandise in the store; that this incensed Clodomiro Cota, who gave him, deponent, a blow; that finally Jesus Alvarez received the said fifty dollars without giving him any receipt therefor, and deponent returned to his house; that on the following day they came back and again committed him to prison to compel him to pay over the balance of the three hundred dollars; that after many mortifications he managed to obtain his freedom by paying over to Manuel Castillo the additional sum of one hundred dollars, without being able to obtain from him a receipt for the same, *and* was the case in the first payment; Alvarez and Castillo, with Clodomiro Cota being then in command—the last one, after various evasive answers, telling him, deponent, that he had
120 no receipt to give him until he had completed the payment of the three hundred dollars; that these outrages were repeated with so much frequency that the deponent resolved to close the house and conceal the goods which it contained, but this did not suffice, as they set to work pounding the doors, and deponent fearing that they would throw them down was compelled to open the same, and deliver to them the sum or effects which they demanded, borrowing, in order to do so, from other persons in the town; that they even at one time attacked the house, some in front and others in the rear; that in the three months that these persons remained in the town of Triunfo they took from him $602.75, which is all that deponent has to set forth upon the subject; that to these vexations and extortions he owes his complete ruin, and finds himself bereft of all resources with which to do business.

Deponent having had read to him this deposition, ratified and subscribed the same before me and the assisting witnesses.

T. YGNACIO ARCE.
YCAZA.

F. R. COTA,
E. PELAEZ,
Assisting Witnesses.

121 [Seal of the court of first instance.]

With the view to carry out a very urgent judicial proceeding you will please notify citizens Celso Gil and Ysidro Montion to appear before this

tribunal of first instance on Monday next, the 11th inst., at eleven o'clock a. m., without excuse or pretext whatever.

Liberty and the constitution.

La Paz, October 8th, 1880.

G. M. YCAZA.

[Seal of the court of first instance.]

To the constitutional judge of Triunfo.

[Seal of the constitutional court of El Triunfo, Lower California.]

Received October 9th, at 12 m.

In testimony whereof, &c.

NUÑEZ.

On the same date citizen Celso Gil, having been notified, said that he heard the same, and notwithstanding his broken health he would endeavor to comply with the notification.

Signed with the judge and assisting witnesses.

CELSO GIL.
NUÑEZ.

ADELARDO FLORES,
M. ALAMILLO,
Assisting Witnesses.

122 In continuation, search has been made for the whereabouts of Ysidro Montion and the same has not been ascertained.

In testimony whereof, &c.

NUÑEZ.

On the same date, there not remaining any further steps to be taken in this order, the same was returned to the tribunal from whence it emanated.

NUÑEZ.

On the same date, citizens Gregorio Padilla appeared before this tribunal and, on the preliminary examination, deposes that his name was as above stated; that he was married; thirty-four years of age; a native of Durango; a resident of this port, and his business that of a merchant.

Being interrogated upon the subject of his investigation he stated that he had a store in the mining town of Triunfo, in company with Don Firzo Hidalgo; that in the month of November of last year, on the 4th or 5th day thereof, Jesus Alvarez entered the town, bringing in advance
123 Ponciano Romero; that the first store they entered was that of the deponent, and demanded that all arms should be delivered up, and that deponent, having no other arms than that which he carried in his belt, he took out and delivered up the same; that under the pretext that he did not deliver up the arms which they demanded of him, they took him away a prisoner, placing him at once before a sentinel; that afterwards they carried off the other merchants, and they were all assembled, and Jesus Alvarez notified or warned each one of the sums expected from each before they should be liberated; that the sum assigned to deponent

was the sum of five hundred dollars, giving them two hundred and seventy-five dollars that he might get out on the same day; that afterwards he came on a commission to this port, with the object of procuring the release of one of the prisoners, who they were holding here in this port in order that Alvarez or Cota should set free the municipal president, Don Manuel Navarro. That he spoke with General Carbó, and he replied to him, "that he admitted of no exchange, as he was not negotiating with robbers;" that returning to Triunfo, he met Clodomiro Cota on the road, who,
124 when he told him the result of his commission, made him, deponent, enter between the files, uniting him with the said Manuel Navarro, Astolfo E. Mendoza, Margarito Falcon, and a gentleman named Galindo; that they were all brought to this port and made to enter on foot and put them in jail; that deponent got out on paying two hundred dollars of the three hundred dollars which they had allot'ed as his share; that in the three months in which these persons remained in this neighborhood, the exactions and outrages were continuous until it had cost deponent nearly one thousand dollars; that before they came to the store of deponent they went to the municipal hall and guard-house, firing upon and killing a policeman, the municipal guard returning the fire, and thereafter abandoning their post in consequence of not being sufficient to resist the force which was brought against them, the town remaining at the mercy of the bandits; that this is all deponent has to say. After having heard read his deposition he ratified and signed the same before the judge and the assisting witnesses.

In testimony whereof, &c.

G. PADILLA.
YCAZA.

E. PELAEZ,
F. R. COTA,
Assisting Witnesses.

[Seal of the court of first instance.]

125 The communication in this moment received from the chief political department is annexed hereto.

In testimony whereof, &c.

LA PAZ, *October 13th*, 1880.

In view of the communication of this date from the chief political department, the present report or proceeding is ordered closed and the original remitted, with the reservation that the same be reopened at the instance of the said department.

Licentiate Gabriel M. Ycaza, judge of first instance of the southern district of the territory of Lower California, so ordered and signed with the assisting witnesses.

In testimony whereof, &c.

G. M. TCAZA.

E. PALAEZ,
GENARO SALDIERNER,
Assisting Witnesses.

On the same date the present proceedings are remitted to the chief political department.

In testimony whereof, &c.

126 LA PAZ, *October 13th*, 1880.

In view of the communication of the chief political department, of this date, let the deposition of citizen Celso Gil be received, and let these originals proceedings be again remitted to it. So ordered by citizen Licentiate Gabriel Maria Ycaza, judge of first instance of the southern district of Lowe California, and signed with the assisting witnesses.

In testimony whereof, &c.

YCAZA.

F. M. COTA,
E. PELAEZ,
Assisting Witnesses.

[Seal of the court of first instance.]

On the same date, October 13th, citizen Celso Gil personally appeared before this tribunal, and in response to preliminary questions answered as follows: That his name was as aforesaid; that he was a bachelor; of the age of 25 years; a native of Sinaloa; a resident of the mining town of Triunfo, and his business that of a merchant. Being questioned touching the matter under investigation he deposed and said as follows: That on the 5th day of November Ponciano Romero entered the town of Triunfo, where he was joined by Jesus Alvarez with thirty men, whom he had
127 concealed in the town, and, united, they attacked the guard-house, firing upon the same; that the soldiers, to the number of twelve, sallied forth from the secret or false door and fled from the town. That they immediately afterwards committed to prison all the merchants of the town; that the deponent had left his house before they went thither for him, and concealed himself, but that discovering the place of his concealment, they took him thence to jail, they having first broken down the doors of his house, entered it and carried off a watch or clock and various other effects; that these articles were of the value of ninety dollars; also a saddle which he had loaned to the municipal president, and which they took from his office, and also a pistol which deponent carried in his belt; that moreover they exacted from him a contribution of one hundred dollars as the price of his liberty; that in three days he succeeded in getting out of prison by delivering over to them the sum of seventy-five dollars; that afterwards these persons (señores) withdrew from said town, but knowing that they
128 were going to return, all the inhabitants assembled together, as they were resolved to defend themselves; that in fact Zapata drew near with a force of sixty mounted men; that his entrance into the town was impeded for two days, but on the third day Marquez, Clodomiro Cota, and Alvarez, with other officers and a force of nearly two hundred and fifty men, arrived; that in consequence of its being impossible to make resistance a surrender took place, and they entered the town and imprisoned all found with arms in their hands; that the prisoners were that day held in the town, and the following day brought to this port of La

Paz. That from deponent they enacted the sum of one hundred and fifty dollars as a condition to setting him at liberty, and that before leaving Triunfo he paid over to them forty-five dollars, and, being already in La Paz, in order to gain his freedom he gave them a pistol, with fifty cartridges; that deponent returned to Triunfo, and on the very night of his return he was arrested at two o'clock a. m., and cast into prison,
129 where two hundred dollars were required of him; that he was given permission to furnish a bond for the two hundred dollars; that deponent then took flight and did not return again to either Triunfo or La Paz. That these exactions cost deponent over five hundred dollars. And further deponent has nothing to depose and after hearing his deposition read, ratified and subscribed his name to the same, with the present judge and the assisting witnesses.

CELSO GIL.
YCAZA.

F. R. COTA,
E. PELAEZ,
Assisting Witnesses.

[Seal of the territory, political government, &c.]

You will be pleased to remit to this chief political department in their present condition the proceedings which you were asked to set on foot in official communication of the 8th inst., and without prejudice to continuing to completion those that may be lacking, since they are urgently required this day by this government.

Liberty and constitution.

La Paz, October 13th, 1880.

A. E. MENDOZA.
ANTONIO CANALIZO,
Secretary.

130 To the judge of first instance of the district, present.

[Seal of the territory, political government, &c.]

Citizen Don Celso Gil having presented himself before this chief political Department as being one of the persons who, according to what is set forth in the communication of the 8th inst., ought to depose in reference to the acts to which said communication makes reference, you will be pleased to interrogate him and annex his deposition to the expediente of proceedings had in the premises upon this subject, for which purpose I return to you said expediente.

Liberty and constitution.

La Paz, October 13th, 1880.

A. E. MENDOZA.

In lieu of the clerk (the latter being engaged).
M. SANTA MARIA,
First Official.

In compliance with the order of this date, October 13th, these
131 original proceedings are remitted to the chief political department.

In testimony whereof, &c.

It is hereby stipulated and agreed by and between the respective counsel in the matter of Clodomiro Cota for discharge on writ of habeas corpus that the foregoing is a correct translation from the Spanish into the English language of certain documents annexed to the return of Joaquin G. Conde, consul of Mexico at San Francisco, California, made to the circuit court, 9th circuit, district of California, on the 4th of January, 1881, which are referred to in said return as depositions of witnesses examined by the Mexican authorities at Lower California, Republic of Mexico, in the matter to which the same refer *to*.

San Francisco, Cal., January 31st, 1881.

PEACHY & GALAN,
Att'ys for Petitioner.
MILTON ANDROS,
Attorney for Joaquin G. Conde, Consul of Mexico at San Francisco, Cal.
PHILIP TEARE,
Attorney for the United States.

132 (Endorsed:) Filed January 4th, 1881. L. S. B. Sawyer, clerk, by J. F. O'Beirne, dep'y clerk.

133 *Order admitting petitioner to bail, &c.*

At a stated term, to wit, the November term, A. D. 1880, of the circuit court of the United States of America, of the ninth judicial circuit, in and for the district of California, held at the court-room, in the city and county of San Francisco, on Saturday the 22nd day of January, in the year of our Lord one thousand eight hundred and eighty-one.

Present: The honorable Lorenzo Sawyer, circuit judge.

IN THE MATTER OF THE APPLICATION OF CLODOMIRO COTA for a writ of habeas corpus.

And now at this day A. C. Peachy, esquire, of counsel for petitioner, moves the court for the release of said petitioner, or for his admission to bail; and said counsel for petitioner, and Mr. Andros and Charles Page, esquires, appeaing on behalf of the Mexican consul, and Philip
134 Teare, esquire, United States attorney, appearing on behalf of the United States, having been heard, it is ordered that said petition' be, and he hereby is, admitted to bail in an amount to be hereafter fixed. Said counsel for petitioner thereupon requests that the points upon which the judges are divided in opinion be stated under the direction of the judges and certified under seal of the court to the Supreme Court of the United States at their next session.

I hereby certify that the foregoing is a full, true, and correct copy of an original order made and entered in the above-entitled matter.

Attest my hand and the seal of said circuit court this 1st day of February, A. D. 1881.

[SEAL.]

L. S. B. SAWYER, *Clerk*,
By J. F. O'BEIRNE,
Deputy Clerk.

135 *Certificate of opposition of opinion.*

UNITED STATES OF AMERICA,
District of California, ss:

United States circuit court, ninth circuit.

At a circuit court of the United States begun and held at San Francisco, in and for the district of California, on Monday, the twenty-second day of November, A. D. 1880.

Present: Honorable Lorenzo Sawyer, circuit judge, and honorable Ogden Hoffman, district judge.

IN THE MATTER OF CLODOMIRO COTA ON habeas corpus.

This case was heard on the petition for a writ of habeas corpus of Clodomiro Cota; the writ of habeas corpus issued thereon; the return of the sheriff of the city and county of San Francisco; the further return of the Mexican consul, who claimed to be the legal custodian and entitled
136 to the custody of said petitioner; a copy of the writ of extradition issued by the honorable George C. Perkins, governor of the State of California, and a copy of the requisition of the governor of Lower California (and the fourteen depositions referred to therein) upon the said governor of the State of California, for the arrest and extradition of said petitioner, made under the treaty between the United States of America and the Republic of Mexico, dated December 11th, 1861, referred to in said returns; all of which documents, together with translations of said requisition and the fourteen depositions mentioned therein, are hereby made a part of this certificate, and ordered to be certified by the clerk and annexed to his certificate as a part thereof and as a part of the record of this case on certificate of opposition of opinion.

137 This case coming on to be heard at the present term of said court upon said papers and record and the facts appearing therein, the return not being controverted, hereinbefore referred to, it occurred as a question:

1. Whether by the terms of the provisions of the extradition treaty between the United States of America and the Republic of Mexico, concluded at Mexico December 11, 1861, ratifications exchanged May 20, 1862, and proclaimed June 20, 1862, and again confirmed by the treaty between the same parties of July 10, 1868, properly construed, and especially by the terms of Articles III and IV of said treaty, the governor of the State of California, upon the requisition of the governor of Lower California, made through the Mexican consul at San Francisco, California, is authorized and empowered, upon evidence presented to him ex parte and satisfactory to him, to issue a warrant of arrest, and cause to be arrested thereon and delivered over to the Mexican authorities, to be transported out of the State of California to Mexico for trial, the peti-
138 tioner, he being a Mexican citizen and a person charged with the crime of kidnapping, as mentioned and described in Article III of said treaty, committed in Lower California, that being a frontier state of Mexico bordering on the State of California, a frontier State of the United States,

without any other previous action of the executive authorities of the United States, or any previous examination or action of any judge, or other judicial magistrate, or officer of the United States, or of the State of California, he, the said petitioner, being found within the said frontier State of California. On which question the opinions of the judges were opposed.

2. It further occurred as a question whether it was competent and within the Constitutional authority of the treaty-making power, by treaty stipulations, without any Congressional legislation prescribing the mode of executing the treaty, to authorize and empower the governor of the State of California upon a requisition made upon him as provided in said treaty to issue a warrant of arrest, and cause to be arrested thereon for the crime of kidnapping, charged to have been committed in Lower Califor-
139 nia, a frontier state of Mexico, bordering on the frontier State of California, the petitioner, upon evidence presented with said requisition ex parte to him and satisfactory to him, said governor of California, and the said petitioner being a Mexican citizen found in the said frontier State of California, to deliver over to the Mexican authorities to be transported to Mexico for trial upon said charge, as in said treaty provided, without any other previous action on the part of the executive authorities of the United States, or any previous examination, determination, or action by any judge or other judicial magistrate or officer of the United States or of the State of California. On which question also the opinions of the judges were opposed.

3. It further occurred as a question whether the acts stated in said requisition of the governor of Lower California annexed to the returns in this case and made a part of this certificate, charged to have been performed by the petitioner in Lower California, constitute the crime of kidnapping as defined in Article III in said treaty, and whether the said facts
140 therein stated are sufficient in law to give jurisdiction to the governor of California and call into action the powers conferred upon him in that behalf to consider testimony presented therewith and determine whether a proper case for extradition is made out under the several provisions of said treaty. On which question the opinions of the judges were also opposed.

4. It further occurred as a question whether the governor of California having power upon the requisition of the governor of Lower California to arrest the petitioner for offenses charged to have been committed by him in Lower California, as provided in said treaty, and to hear evidence and determine whether a proper case for extradition is thereby established, his said determination thereon is conclusive and not subject to review on habeas corpus or otherwise by this court. Upon which question the opinions of the judges were opposed.

5. It further occurred as a question whether where the governor of California has jurisdiction to hear evidence and determine whether a proper
141 case for extradition has been made out it is competent for this court, on habeas corpus or otherwise, to review his action either in determining whether the evidence offered is so authenticated as to be admissible under the provisions of said treaty or, if admissible, to review his action as to the sufficiency of the evidence offered to establish a proper case for extradition. Upon which question the opinions of the judges were opposed.

Whereupon, on motion of A. C. Peachy, esq., of counsel on behalf of said petitioner, that the several points on which the disagreement has happened may, during the term, be stated under the direction of the judges and certified under the seal of the court to the Supreme Court of the United States to be finally decided, it is ordered that the foregoing statement of the record upon which the case was heard and of the facts, which is made under the direction of the judges, be entered of record and be certified accordingly at the request of said party by his counsel and the law in the case made and provided.

LORENZO SAWYER,
Circuit Judge.
OGDEN HOFFMAN,
Dist. Judge.

142 (Endorsed:) Filed and entered February 1st, 1881. L. S. B. Sawyer, clerk.

Order amending return of Mexican consul, &c.

At a stated term, to wit, the November term, A. D. 1880, of the circuit court of the United States of America, of the ninth judicial circuit, in and for the district of California, held at the court-room, in the city and county of San Francisco, on Tuesday, the first day of February, in the year of our Lord one thousand eight hundred and eighty-one.

Present: The honorable Lorenzo Sawyer, circuit judge.

IN THE MATTER OF THE APPLICATION OF }
Clodomiro Cota for a writ of habeas corpus. }

On motion of Milton Andros, esq., of counsel for Joaquin G.
143 Conde, esq., consul of Mexico, at San Francisco, California, it is ordered that the return of said Mexican consul to the writ of habeas corpus herein be amended by adding after the word "requisition," in line 15½, on page 2 of said return, the words "together with a translation of said requisition from the Spanish into the English language, and of the fourteen depositions referred to in said requisition and in said warrant of the governor of California, together with a translation of the same, are, also, referred to and made a part of this return."

I hereby certify that the foregoing is a full, true, and correct copy of an original order made and entered in the above-entitled action.

Attest my hand and the seal of said circuit court this 1st day of February, A. D. 1881.

[SEAL.] L. S. B. SAWYER, *Clerk,*
By J. F. O'BEIRNE,
Deputy Clerk.

144 *Certificate of clerk U. S. circuit court, &c.*

In the circuit court of the United States, ninth judicial circuit, district of California.

IN REAPPLICATION OF CLODOMIRO COTA FOR }
a writ of habeas corpus. }

I, Lorenzo S. B. Sawyer, clerk of the circuit court of the United States,

of the ninth judicial circuit in and for the district of California, do hereby certify that the foregoing papers hereto annexed constitute the record or certificate of opposition of opinion in the above-entitled matter.

Witness my hand and the seal of said circuit court this 1st day of February, A. D. 1881.

[SEAL.] L. S. B. SAWYER, *Clerk*,
By J. F. O'BEIRNE,
Deputy Clerk.

(Endorsed:) Filed February 1st, 1881. L. S. B. Sawyer, clerk, by J. F. O'Beirne, d'p'y clerk.

145 I, Lorenzo S. B. Sawyer, clerk of the circuit court of the United States for the district of California, do hereby certify the foregoing one hundred and forty-four written pages, numbered from one to one hundred and forty-four, to be a full, true, and correct copy of the record and all the proceedings in the therein entitled matter, and that the same together constitute the transcript to the Supreme Court of the United States therein.

Attest my hand and seal of said circuit court this seventeenth day of February, A. D. one thousand eight hundred and eighty-one.

[SEAL.] L. S. B. SAWYER, *Clerk*,
By J. F. O'BEIRNE,
Deputy Clerk,

(Indorsement on cover:) No. 227. Ex parte Clodomiro Cota, petitioner. California C. C. U. S. Filed 3rd March, 1881.

110-385

In the Supreme Court of the United States.

OCTOBER TERM, 1883.

EX PARTE. IN THE MATTER OF CLODOMIRO COTA, PETITIONER. No 227.

BRIEF FOR THE UNITED STATES.

In the Supreme Court of the United States.

OCTOBER TERM, 1883.

EX PARTE. IN THE MATTER OF CLODOMIRO COTA, PETITIONER. No. 227.

BRIEF FOR THE UNITED STATES.

This case is here on a certificate of division of opinion from the judges of the circuit court of the United States for the district of California.

The petitioner is a citizen of the State of Lower California, one of the united Mexican States. He was arrested in San Francisco as a fugitive from justice, charged with kidnapping, under a warrant issued by the governor of California, in pursuance of a requisition from the authorities of the State of Lower California, and delivered to the Mexican consul at San Francisco, and by him turned over to the commander of the Mexican gunboat Democrata, then anchored in the harbor of San Francisco.

Afterwards the petitioner was brought before a State court on *habeas corpus*, and thereafter committed to the custody of the sheriff of the city and county of San Francisco, from whose custody he was taken by virtue of a writ of *habeas*

corpus from the said circuit court of the United States, and afterwards admitted to bail by said court.

The action of the governor in issuing the warrant for the arrest of the petitioner was under the extradition treaty between the United States and Mexico, dated 11th December, 1861. (Public treaties, 506–'8.)

The third article of the treaty provides that persons charged with kidnapping, that is to say, "the taking and carrying away of a free person by force or deception," and various other named offenses committed within the frontier States or Territories of the contracting parties, shall be delivered up as provided by other articles of the treaty.

The second article of the treaty is as follows:

> ARTICLE II. In the case of crimes committed in the frontier States or Territories of the two contracting parties requisitions may be made through their respective diplomatic agents or through the chief civil authority of said States or Territories, or through such chief civil or judicial authority of the districts or counties bordering on the frontier as may for this purpose be duly authorized by the said chief civil authority of the said frontier States or Territories, or when, from any cause, the civil authority of such State or Territory shall be suspended, through the chief military officer in command of such State or Territory.

The fourth article of the treaty is as follows:

> ARTICLE IV. On the part of each country, the surrender of fugitives from justice shall be made only by the authority of the Executive thereof, except in the case of crimes committed within the limits of the frontier States or Territories, in which latter case the surrender may be made by the chief civil authority

thereof, or such chief civil or judicial authority of the districts or counties bordering on the frontier as may be for this purpose duly authorized by the said chief civil authority of the said frontier States or Territories; or if, from any cause, the civil authority of such State or Territory shall be suspended, then such surrender may be made by the chief military officer in command of such State or Territory.

Upon the hearing on the writ of *habeas corpus* the judges of the circuit court were opposed in opinion upon five questions, which have been duly certified up here. (R. pp. 53–55.)

ARGUMENT.

I.

The States of Lower California and California are conterminous frontier States within the meaning of the second and fourth articles of the treaty.

Undoubtedly the second and fourth articles of the treaty, giving the frontier States palatinate jurisdiction in the matter of extradition, were to provide means for making requisitions and arrests with the promptness absolutely necessary to put restraint on the lawlessness that disturbs those regions. If in such cases the central supreme power of each of the high contracting parties must act the treaty is practically worthless.

The high contracting parties have therefore wisely invested their border States with full power over the subject. Is there any limitation on the treaty-making power to prevent this? We confess that we see none.

'Tis true that neither the Federal nor State judicatures are authorized to exercise any functions in the matter of

extradition, but then the governor of the State is invested with plenary functions, and is as much bound as the judiciary would be to weigh carefully the evidence adduced and to require full proof before issuing his warrant.

II.

As to whether it was competent to the treaty-making power to provide the machinery for carrying the treaty into effect without any interference of Congress, is a question that has been frequently agitated, and which, in the case of Jonathan Robbins, produced great excitement in this country.

In the case of the British prisoners (1 Woodb. and M., p. 66), Mr. Justice Woodbury held that an extradition treaty might operate *proprio vigore*, without legislation, and in the case of Christiana Cochrane (4 Op., 201), Mr. Attorney-General Nelson took the same view.

In the notable case of Metzger (1 Edmonds' Select Cases 399, and S. C. 1 Barb., 248), Judge Edmonds, of New York, held that the Executive could not extradite without legislation in aid of the treaty, and discharged the prisoner, notwithstanding the decision of a Federal court that he was properly held, and notwithstanding the President had ordered the marshal to deliver him to the agents of the foreign country from which he was a fugitive.

Shortly after this case, Congress legislated on this subject, seemingly in accordance with the law as laid down by Judge Edmonds, by providing the proper judicial machinery to be used uder all extradition treaties. See this and the subsequent legislation under the title Extradition in the Revised Statutes, p. 1021.

In the Jonathan Robbins case and other cases (*vide* Spear on Extradition, pp. 49–63) it was jealousy of the Executive that aroused the public mind; jealousy of power in the President to arrest and send out of the country a person claimed by a foreign potentate without any interference of the judiciary. Such a power in the Executive was deemed dangerous to the public liberty and incompatible with our institutions.

But under the treaty with Mexico there exist none of these dangers, for 'tis not the Executive of the nation, but of each of the several frontier States, that is to carry out the treaty.

It is to be remarked, furthermore, that the act of the treaty-making power in investing the executive of each of the frontier States with power to execute the treaty was no invasion of the legislative domain of Congress, seeing that it is quite beyond the competency of Congress to make a Federal out of a State officer, in the proper sense of the term. Congress may in such cases authorize, but it cannot compel, performance of a Federal function.

It may, however, and with force, be said that it is for Congress alone to determine in what manner the duties and obligations of the treaty shall be performed, and that the liberty of the people requires that this subject should be under the control of the great inquest of the nation, Congress.

III.

The offense on which the petitioner was arrested was kidnapping, within the meaning of the treaty. According to the depositions in the record the petitioner and his fellow